

ARTICLE XVI

SUPPLEMENTAL REGULATIONS

The following Regulations shall supplement the regulations set forth herein for each District and shall apply throughout the Municipality unless otherwise specified in other sections of this Zoning Ordinance.

1600. Accessory Building Regulations

- (1.) An accessory building not attached to the principal structure may be located in any required side or rear yard provided:
 - (a.) Such buildings shall not exceed one story or be more than fifteen feet (15'0") in height.
 - (b.) All such buildings taken together shall not occupy more than thirty percent (30%) of the area of the required rear or side yard where so located.
 - (c.) Such buildings shall not exceed 192 square feet (12' x 16') in floor area.
 - (d.) Accessory buildings for residential uses shall be located no closer than five feet (5'0") from any side or rear lot line. Accessory buildings for principal uses other than residential shall be located no closer than ten feet (10'0") to any side or rear property line.
- (2.) When an accessory structure is attached to the principal building it shall comply with all respects with the requirements of this Ordinance applicable to the principal building.
- (3.) An accessory building on that portion of a lot not included in any required yard shall conform to the height regulations for principal buildings.
- (4.) No accessory building shall project nearer to the street on which the principal building fronts than the minimum building setback distance for the principal building.
- (5.) All accessory structures in excess of 192 square feet must comply with the building setbacks for the principle structure of the zoning district in which it is located as well as the Uniform Construction Code, as applicable.

- (6.) Structures originally designed for transportation after fabrication on streets and highways on their own wheels and arriving at the site where they are to be utilized complete and ready for use except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like, including but not limited to structures originally designed as manufactured homes, as vans, as trailers, or as buses, are not permitted as accessory structures.

1601. Height Regulations

- (1.) Where a lot has frontage on two or more streets or other public rights-of-way, the height limitation shall apply only as measured from the curb level along the street or way with a higher elevation above sea level.
- (2.) Chimneys, flues, towers, spires, cupola domes, pole masts, antennas, barns, silos, wind energy facilities and personal stand alone wind turbines shall be exempt from height limitations of this Ordinance provided their location is not in the required yard as limited by specific provisions of Article XVI.

1602. Yard and Lot Regulations

- (1.) On Corner Lots:
 - (a.) Front yards are required on both street frontages. A rear yard must be designated at the time the first building permit, for the principle structure, is issued. If the principle structure already exists, the rear yard may be determined by the Zoning Officer with consideration to such factors as the location of the driveway, front main entrance/door, and address of property
 - (b.) All other yards are deemed side yards.
 - (c.) No minimum building setback shall be less than that necessary to meet clear sight distance requirements. Clear sight distance shall be maintained in accordance with the Subdivision & Land Development Ordinance despite any zoning regulations that may allow otherwise.
- (2.) Front-yard Exception:

No proposed building need have a setback greater than the average of the two existing principal buildings with the greatest setbacks located within one-hundred feet (100'0") on each side of the said proposed building, on the same side of the street, within the same block, and the same district. However, in no event shall the front yard be less than ten feet (10'0").
- (3.) Projections into Required Yards:

- (a.) Cornices, canopies, eaves or other impervious architectural features, not to include trellises or other pervious ornamental structures, may project into side yards a distance not exceeding two inches (2") per one foot (1'0") of side yard width but may not exceed a total of three feet (3'0"). Trellises and other pervious ornamental structures are exempt from setback requirements.
- (b.) Bay windows, balconies, fireplaces, uncovered stairways, necessary landings, and chimneys may project a distance not exceeding three feet (3'0").
- (c.) Uncovered patios, porches, and decks may not be located in any required front yard. Uncovered patios, porches, and decks may be located in side and rear yards, provided it is at least ten (10) feet from any adjacent property line. In case of a corner lot, no such structures shall extend into the required yard adjoining each street. However, such structures may be located closer to the side and rear yards provided they are screened in accordance with this ordinance and the Subdivision and Land Development Ordinance. Covered patios, porches, and decks must meet the required setbacks for principle structures.

(4.) Through Lots:

Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages. However, in case of a complete system of through lots that are designed for reversed frontage, the front yard need only be along the minor street of the subdivision.

(5.) Waiver of Yards:

No side yard or rear yard shall be deemed necessary where such yard abuts an operating railroad right-of-way.

(6.) All new building lots shall have road frontage on a public street.

1603. Private Outdoor Swimming Pools

A building permit shall be required for the installation or construction of a private outdoor swimming pool on the same lot as the principal residence subject to the following conditions:

- (1.) Such pool may be erected in the required rear yard, but not in the required side yard or front yard.

- (2.) The water edge of such pool shall not be located nearer than twenty feet (20'0") to any lot line for any pool.
- (3.) All swimming pools shall comply with the requirements of the Building Code.

1604. Recreational Vehicle Camps, Campgrounds and Trailers

Recreational vehicle camps, campgrounds, and trailers where permitted shall be laid out and developed in accordance with the following safeguards and regulations:

- (1.) A plan for the layout and design of the camp including a legal description and clearly setting forth the following information:
 - (a.) The boundaries of the tract.
 - (b.) The extent and area to be used for parking purposes.
 - (c.) Driveways and entrances, exits, roadways, and walkways.
 - (d.) Location and number of proposed sanitary conveniences including washrooms, laundry room, drying space, utility rooms, and toilets.
 - (e.) Location of the sites for camper units.
 - (f.) Method and plan of sewage disposal.
 - (g.) Method and plan for garbage and trash removal.
 - (h.) Plans for water supply and distribution.
 - (i.) Plans for electric lighting and service connections.
 - (j.) Areas to be used for play space and proposed amenities.
- (2.) All streets and parking areas shall be graded to an approved profile and cross-section and drainage facilities and structures shall be installed to conform to Township specifications.
- (3.) A recreational vehicle camp shall be approved for occupancy by trailers only when a service building is located within three hundred (300) feet of the spaces it serves and equipped with:

- (a.) Water-flushed toilets, lavatories and showers, at the rate of one (1) for each sex for each ten (10) spaces in the camp.
- (b.) Laundry trays, clothes washing machines and a service sink with a flushing rim at the rate of one (1) for each twenty- (20) spaces.

1605. Prohibited Uses

- (1.) The primary living and sleeping quarters of dwelling units shall not be permitted in cellars.
- (2.) The following uses are prohibited in all districts throughout the municipality.
 - (a.) The incineration, reduction or storage of garbage, offal, animals, fish or refuse, unless by the Authority of or under the supervision of the municipality. Specifications of the Pennsylvania Department of Labor and Industry and the office of the Fire Marshal shall be followed. The incineration that is generally accessory to and conducted by individual homeowners is permitted.
 - (b.) Dumps and dumping of any kind.
- (3.) Automobile wrecking, salvages, and junkyards except when licensed by the Township, in that case only when located in the Commercial - Industrial District.

1606. Essential Services

Essential Service buildings and/or structures shall be permitted by right or by conditional use in accordance with the requirements of the district without regard to the use and area regulations; provided, however, that buildings and/or structures erected for these utilities shall be subject to the following regulations:

- (1.) Front, side and rear yards shall be provided in accordance with the regulations of the district in which the building is located.
- (2.) Height of building shall be as required by the district regulations.
- (3.) Unhoused equipment shall be enclosed with a chain link fence six (6) feet in height.
- (4.) Housed Equipment - When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the district in which the facility is located.

- (5.) Screen Planting in Residential Districts - The required fence for unhoused equipment shall be screened as defined by this Ordinance.
- (6.) The external design of the building shall be in conformity with the buildings in the district.
- (7.) Storage of Vehicles - In residential districts, the permitted public facilities shall not include the storage of vehicles or equipment used in the maintenance of any utility and no equipment causing noise, vibration, smoke, odor, or hazardous effect shall be installed.

1607. Screening

Screening requirements as contained in Article VII of the Subdivision and Land Development Ordinance shall be applicable under the following circumstances:

- (1.) Where a proposed commercial, industrial, or institutional use abuts an existing residential use or districts where residential uses are permitted.
- (2.) Where any single-family attached dwelling or apartment abuts an existing single family detached, single-family semi-detached or two-family detached dwelling.
- (3.) Any other instances where screening is required by this Ordinance or by the Township.
- (4.) Screening shall comply with the design requirements of the Subdivision and Land Development Ordinance, as amended.

1608. Storage

- (1.) Outdoor storage shall be completely screened from view of any adjacent residential use. Screening shall consist of evergreen plantings, architectural screen, or approved safety fence.
- (2.) No storage shall be permitted within the front yard of any lot.
- (3.) Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot to the rear of the front building wall of the principal building, and shall not exceed twenty (20) feet in height.

- (4.) All organic refuse or garbage shall be stored in tight, vermin-proof containers. In multiple family, commercial and industrial developments, garbage storage shall be centralized to expedite collection and enclosed on three sides by architectural screen or plantings.
- (5.) In RL, RM, RH, and V districts, no unlicensed truck, tractor, trailer, boat, or any similar vehicle shall be regularly parked or stored for more than 24 hours unless it is:
 - (a.) In an enclosed structure; or
 - (b.) If not in an enclosed structure, the vehicle or equipment shall be completely screened from view from the adjoining properties and the street at all seasons of the year.
 - (c.) The unenclosed storage of the vehicle or equipment that cannot move under its own power shall not be permitted within any of the required yards.
- (6.) No flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except for tanks of fuel (1) directly connected to energy or heating devices or (2) used in conjunction with active agricultural or construction activities. A list of such liquids, solids or gases stored on site shall be supplied to the appropriate fire companies serving the Township.
- (7.) No structure or land shall be used or developed, and no structure shall be located, extended, converted or structurally altered unless the applicant takes all reasonable measures to minimize the impacts of the above ground and underground storage of heating oil, gasoline, diesel fuel, chemical solutions, hazardous materials, or other substances which, if released, would constitute pollutants to surface water or groundwater or environment. It shall be within the sole discretion of the Board of Supervisors, by majority vote, to determine what constitutes a "reasonable measure". The applicant shall also demonstrate compliance with all applicable regulations of the U.S. Environmental Protection Agency, Pennsylvania Department of Environmental Protection, and the Pennsylvania State Police, Fire Marshall Division, including notification and registration requirements.

1609. Home Occupations

The intent of this section is to permit those uses that will be of a service nature and not involve the purchase and/or sale of goods.

- (1.) Any use customarily conducted within a single-family detached dwelling by the residents thereof. The use shall be clearly incidental and

secondary to the use of the dwelling for dwelling purposes and the exterior appearance of the structure and premises shall be residential in character. There shall be no exterior evidence of the home occupation except the permitted sign and the use shall cause no offensive noise, vibration, smoke, dust, odor, heat or glare. Hereafter, no home occupation shall be permitted unless off-street parking space is provided. The off-street parking shall be in addition to the spaces required for the residential use and shall be at least two (2) spaces and such additional space as shall be required by the Board for specific use.

- (2.) A home occupation shall be limited to the following and to uses similar thereto: dressmaking, millinery, seamstress, art studio, professional and business offices of a physician, dentist, lawyer, engineer, architect, landscape architect, accountant, beauty shops, real estate and insurance agents, salesmen, public officials, teachers when limited to a single pupil at a time and family (but not commercial) day-care. The conduct of a home occupation shall be limited to the homeowner-operator and not more than one additional employee. Home occupations are limited to twenty-five (25) percent of the total floor area of the principal building.

1610. Interchange Development

Proposed uses located in the vicinity of grade separated highway interchanges shall be subject to the following requirements:

- (1.) **Setback.** All structures on an approach road within one thousand (1,000) feet of a grade separated highway interchange shall be set back not less than seventy-five (75) feet from the right-of-way line of such road or highway.
- (2.) **Driveway Access Points.** All structures on approach roads within one thousand (1,000) feet of a grade separated interchange shall be limited to no more than two (2) driveway access points, except that properties which are less than two hundred (200) feet wide shall be designed in a manner which will minimize their interference with any through traffic on the approach ramp. Such driveway access points shall not exceed thirty (30) feet in width at any such point and shall not be located nearer than one hundred fifty (150) feet to one another.
- (3.) **Interchange Ramp Protection.** Individual driveway access points and intersecting roads on any approach road are prohibited for a distance of three hundred (300) feet from the end of any interchange ramp which intersects with the approach road.
- (4.) **Interchange Development.** No structure other than directional signs and/or other traffic control signs or devices erected by a governmental

body shall be erected within two hundred (200) feet of the right-of-way of any grade separated interchange. Such area may, however, be used in providing required lot area or yard space. No activity or use shall be established within seventy-five (75) feet of any such interchange except as provided above, and the natural vegetation and terrain within said 75 feet shall remain undisturbed.

1611. Bed and Breakfast and Boarding Houses

Bed and Breakfast and Boarding Houses where permitted, shall be subject to the following criteria:

- (1.) Bed and Breakfast, Boarding Houses, and Short Term Lodging Accommodations shall only be permitted within single-family detached dwellings that existed on the effective date of this Ordinance.
- (2.) Any modification to the external appearance of the building shall compliment its residential character (except for fire escapes).
- (3.) All floors above or below grade shall have a permanently affixed direct means of escape to ground level.
- (4.) One (1) off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit.
- (5.) All parking areas shall be set back a minimum of ten (10) feet from the rear and side property lines, and shall be screened from adjoining lots in residential use.
- (6.) A Bed and Breakfast, Boarding House, Short Term Lodging Accommodations may erect one (1) sign per road frontage no larger than twelve (12) square feet in size.
- (7.) Meals shall be offered only to overnight guests.
- (8.) The Applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
- (9.) The building or structure used must be in compliance with the Uniform Construction Code.
- (10.) Special events and public functions such as concerts, conferences, or weddings shall be prohibited on the lot unless zoning approval for such has been specifically granted.

- (11.) The owner/operator must provide the name and 24-hour contact phone number of the person responsible for the security and maintenance of the property to the Township Department of Community Development. The contact phone number must also be posted in a visible, but discreet, location on the property.

1612. Short Term Lodging Accommodations

Short Term Lodging Accommodations as defined in this Ordinance shall comply with the following regulations:

- (1.) Applicant must register with the Township and obtain a zoning and building permit, as applicable.
- (2.) Applicant must show proof of registration with the county's visitor's bureau for hotel tax collection purposes.
- (3.) Applicant must have a 24-hour contact live within 1 hour of the property and can respond in that timeframe. The contact information shall be provided on the registration form.
- (4.) HOA approval shall be provided in residential neighborhoods that have such governance.
- (5.) Proof of commercial insurance shall be required.
- (6.) The total number of occupants shall be determined based on accommodations provided. (i.e. bedrooms, parking, sewage, etc.)
- (7.) The occupants shall at all times remain in compliance with all federal, state, and local regulations and/or conditions of the zoning or building permit in regards to nuisances. Violation of such regulations may result in citations being issued or a revocation of the zoning and building permit.
- (8.) All short term lodging accommodations shall be subject to compliance with the Uniform Construction Code and shall be considered a commercial use for the purposes of this section. Dwelling to be used for short term lodging accommodations shall be subject to inspection by the Township Building Code Official or designee.

1613. Commercial Centers

Commercial centers, where permitted, shall be subject to the following criteria. Commercial center designations to which this section is applicable include neighborhood and community commercial centers, regional commercial/industrial centers, mixed use development and airport development district.

- (1.) Where the commercial center exceeds 25,000 square feet in total building area, there shall be a minimum of two (2) separate points of ingress and egress.
- (2.) All access points shall comply with the Township's Road Access Requirements contained in Section 716 of the Subdivision and Land Development Ordinance.
- (3.) A commercial center shall be under unified management, which shall clearly establish centralized responsibility for the operation and maintenance of the project including all common areas.
- (4.) There shall be only one free standing sign per road frontage which shall be designed and used for the purpose of announcing the commercial center itself in compliance with the applicable provisions of this Ordinance.
- (5.) Traffic circulation within a commercial center project shall be designed to minimize pedestrian and vehicular mixing and congestion. Circulation shall be provided along the outer perimeters and along building entrances.

1614. No-Impact Home Based Business

No-Impact home based businesses shall be considered to be permitted in all zoning districts where deemed appropriate as defined by this ordinance. No zoning permit shall be required where such use meets the criteria as defined by this ordinance and the Municipalities Planning Code.

1615. Performance Standards

No land or building in any District in the Township shall be used or occupied in such a manner to create any dangerous or objectionable elements in such amount as to adversely affect the surrounding area or premises. All uses of land or building shall initially and continuously comply with all applicable performance standards established by Federal and State agencies. Performance standard determination shall be administered in accordance with the following:

- (1.) Any normal replacement or addition of equipment and machinery not affecting the operations or the degree of nature of dangerous and objectionable elements emitted shall not be considered a change in use.
- (2.) After occupancy, if there occurs continuous or frequent, even though intermittent, violations of the Performance Standards and other provisions for a period of 5 days, without bona fide and immediate corrective work, the Township shall suspend or revoke the occupancy permit of the use and the operation shall immediately cease until it is able to operate in

accordance with these regulations, at which time the occupancy permit shall be reinstated.

- (3.) The Township shall investigate any alleged violation of Performance Standards, and if there are reasonable grounds to believe that a violation exists, the Township shall investigate the alleged violation, and for such investigation may employ qualified experts.
- (4.) A copy of said findings shall be forwarded to the Township Supervisors. The services of any qualified experts employed by the Township to advise in establishing a violation shall be paid for by the violator. If it shall be determined that a violation is proved, and otherwise by the Township, no new certificate of occupancy shall be issued unless such charges have been paid to the Township.

1616. Fences and Walls

- (1.) Fences and walls (including retaining walls) may be erected, altered, and maintained within the yards provided that any such fence or wall shall not exceed four (4) feet in height in the required front yard; six (6) feet in height in the side or rear yards; and eight (8) feet in height within the building setback areas of the lot.
- (2.) No wall, fence, or other structure shall be erected or altered which may cause danger to traffic on a street or public road by obscuring the view.
- (3.) No fence, wall or other structure shall be erected or maintained within the right-of-way of any street, drainage or sewer right-of-way, any public easement, or within the clear sight triangle.
- (4.) A fence may be erected higher than six (6) feet, but shall not exceed eight (8) feet in the following instances:
 - (a.) A fence up to eight (8) feet in height is permitted to enclose a swimming pool, provided such fence and pool are located within the rear yard and a minimum of ten (10) feet from any property line.
 - (b.) A fence up to eight (8) feet in height is permitted to enclose a patio, provided such fence and patio are located within the rear yard and a minimum of ten (10) feet from any property line.
- (5.) A fence may be erected to a height in excess of that otherwise permitted only by special exception.

1617. Minimum Habitable Floor Area

- (1.) The minimum habitable floor area of every dwelling unit or any building or structure hereafter erected or used for living purposes, shall be not less than eleven hundred (1,100) square feet on the first floor if one story or seven hundred twenty (720) square feet on the first floor if two or more stories.
- (2.) In case of apartment buildings and conversion apartments, the minimum habitable floor area shall be not less than four hundred (400) square feet per apartment, except those apartments designed for and occupied exclusively by one person, which apartment shall contain not less than three hundred (300) square of habitable floor area.
- (3.) In the case of manufactured homes, the habitable floor area shall not be less than four hundred (400) square feet.

1618. Hospitals, Nursing, or Convalescent Homes

- (1.) Permitted Uses
 - (a.) Hospitals.
 - (b.) Nursing and convalescent homes.
 - (c.) Sanitariums for general medical care.
 - (d.) Philanthropic, charitable or religious institutions.
- (2.) Area and Bulk Regulations - All area and bulk regulations of the prevailing zoning district shall apply with the following exceptions:
 - (a.) The minimum lot area shall be 5 acres or 800-sq. ft. per patient bed whichever is greater.
 - (b.) The minimum front, side, and rear yards shall be 100 feet.
 - (c.) The maximum lot coverage (principal and accessory buildings) shall be 20 percent.
 - (d.) The maximum building height shall be four stories, not to exceed 40 feet, unless increased by Special Exception.
- (3.) Supplemental Regulations

- (a.) Each site shall be landscaped in accordance with a plan prepared in accordance with Article VII of the Subdivision and Land Development Ordinance.
- (b.) No parking area shall be located within the yard requirements.
- (c.) Sufficient exterior nighttime illumination of the parking area shall be required to provide convenience and safety. All such illumination shall be shielded from view of all surrounding streets and lots.
- (d.) All buildings shall be of fireproof construction.
- (e.) All permitted uses shall be served by adequate water and sewer systems.

1619. Life Care Communities

Where permitted, life care communities shall comply with Article XX of this Ordinance and the following additional provisions:

- (1.) The life care community and accessory facilities shall be designed and used to serve its residents and their guests only.
- (2.) The life care community shall be planned, developed, and operated according to a unified plan under the direction of a single owner or agent for the owner.
- (3.) The minimum tract size for a life care community shall be forty (40) contiguous acres.
- (4.) The maximum gross density within a life care community shall not exceed five (5) dwelling units per acre. For the purposes of this section, four (4) beds for patient, resident and/or staff person use provided within a medical facility within the life-care community shall be deemed the equivalent of one (1) dwelling unit.
- (5.) The life care community may provide individual dwelling units in any combination of single or multiple-family dwellings and shall include a continuum of care and services including independent living, assisted living and skilled nursing home facilities. Additional facilities provided as part of the life care community may include:
 - (a.) Community Center in which an auditorium, activity rooms, craft rooms, library, lounges or other similar recreational facilities for members of the life care community.

- (b.) Dining facilities;
 - (c.) Office and retail service facilities designed and adequate to serve only the members of the life care community, including but not necessarily limited to doctor's offices, pharmacy, gift shop, coffee shop, bank, barber or beauty shop.
- (6.) A minimum of thirty percent (30%) of the total tract area shall be designated and maintained as common open space in accordance with the requirements of this Article XVI.
- (7.) There shall be a minimum setback of one hundred (100) feet from all tract boundaries in which no structures shall be located. The buffer yard and screening provisions of this Article shall be incorporated within setback areas.

1620. Innovative Design Development

- (1.) In order to foster creative land development, the standards herein set forth may be relaxed or eliminated upon the mutual agreement between the applicant and the governing body provided the proposed uses are limited to those allowed as permitted or conditional uses within the applicable zoning district. The criteria for which such development shall be considered are as follows:
- (a.) To promote traditional village building and site development patterns with an interconnected and broadly rectilinear pattern of streets, alleys, and blocks, providing for a balanced mix of automobiles.
 - (b.) To promote the location of shops and workplaces in close proximity to each other in a compact configuration and in a scale that accommodates and promotes pedestrian travel within the district and to surrounding neighborhoods.
 - (c.) To provide a pedestrian environment designed with safe and convenient connections to shopping, employment opportunities, parks, trails, and transit facilities.
 - (d.) To promote high quality building and site development with village-like character.
- (2.) All applications filed under this Section:
- (a.) Shall be first submitted by way of sketch plan.

- (b.) Shall first be presented to the Board of Supervisors.
 - (c.) Shall thereafter proceed through the traditional planning process as a conditional use.
- (3.) Submission of plans under this Section and a failure to reach an agreement between the applicant and the governing body shall **not** be a basis for appeal. Submission of plans pursuant to this Section is completely voluntary and with full acknowledgement that the possibility of reaching agreement with the governing body is not guaranteed and a failure to reach agreement may be an entirely subjective and discretionary decision by the Board of Supervisors.

1621. Churches and Similar Places of Worship

- (1.) Permitted Uses
- (a.) Places of worship including churches, synagogues, temples, chapels, halls and the like.
 - (b.) Religious education building but not parochial schools.
 - (c.) Recreation buildings when accessory to worship activity.
 - (d.) Residences when related to worship activity, such as parish house, manor, convent and the like.
- (2.) Area and Bulk Regulations. All area and bulk regulations of the prevailing zoning district shall apply with the following exceptions:
- (a.) The minimum lot size shall be one acre; however, if the sanctuary shall have space for more than 500 persons one additional acre shall be required for each additional 100 persons or portion thereof.
 - (b.) The maximum building height shall be 3 stories, not to exceed 45 feet, except that steeples, towers, domes and similar architectural features may exceed this maximum by one foot in height for each two feet the building is set back from the street or front property line.

1622. Cemeteries

- (1.) Permitted Uses

- (a.) Cemeteries
 - (b.) Mausoleums
 - (c.) Crematories
 - (d.) Caretaker Residence
 - (e.) Chapels
- (2.) Area and Bulk Regulations. All area and bulk regulations of the prevailing zoning district shall apply with the following exceptions:
- (a.) The minimum size of a cemetery shall be 5 acres.
 - (b.) The minimum front, side and rear yards shall be 100 feet.
 - (c.) The maximum lot coverage (building, driveways, parking areas and other paved surfaces) shall be 10 percent.
- (3.) Supplemental Regulations
- (a.) Landscaping shall be required and set in place according to a plan prepared in accordance with Article VII of the Subdivision and Land Development Ordinance.
 - (b.) Screening shall be required where the lot abuts an existing residential use or a residential zoning district.
 - (c.) No parking area shall be located within the required front, side or rear yards.

1623. Schools

- (1.) Permitted Uses
 - (a.) Public Schools
 - (b.) Parochial Schools
 - (c.) Private Schools
 - (d.) Colleges and Universities

- (2.) Area and Bulk Regulations. All area and bulk regulations of the prevailing Zoning District shall apply with the following exceptions:
- (a.) The minimum lot size shall be based upon the following standards for school sites
 - (i.) Elementary - 10 acres
 - (ii.) Junior High - 20 acres
 - (iii.) Senior High - 35 acres
 - (iv.) Colleges and Universities - 35 acres
 - (b.) In addition to the above acreage, there shall be provided one acre of land for each 100 students.
 - (c.) The minimum front, side and rear yard shall be 100 feet.
 - (d.) The maximum lot coverage (principal and accessory buildings) shall be 20 percent.
- (3.) Supplemental Regulations
- (a.) Each site shall be landscaped in accordance with a plan prepared in accordance with Article VII of the Subdivision and Land Development Ordinance
 - (b.) Screening shall be required where the site abuts an existing residential use or a residential zoning district.
 - (c.) No parking area shall be permitted within the required front, side or rear yards.
 - (d.) Each site shall be easily accessible from an improved street or highway with safe ingress and egress for both vehicular and pedestrian traffic.
 - (e.) Each site shall be economically accessible to essential public utilities.
 - (f.) All play areas contiguous to any developed lot shall be fenced.

1624. Day Care Centers

Day Care Centers may be approved according to the procedures and requirements specified below:

- (1.) Day Care Centers providing care for more than three (3) children not related to the caregiver must secure a license from the Commonwealth of Pennsylvania, Department of Public Welfare. The Zoning Officer must provide evidence of such state licensing before the issuance of a use and occupancy permit.
- (2.) The Day Care facility shall have at least 65 square feet of outdoor play area for each child. This play area must be located in the rear yard and be sufficiently screened and sound-insulated so as to protect the neighborhood from excessive noise and other disturbances.
- (3.) A Day Care Center shall not be located within 1,000 feet of any other Day Care Center. This measurement shall be taken from property line to property line.

1625. Social and Fraternal Clubs and Organizations

- (1.) Permitted Uses
 - (a.) Social and Fraternal Clubs
 - (b.) Accessory outdoor recreational facilities such as:
 - (i.) private playgrounds
 - (ii.) golf courses
 - (iii.) swimming pools
 - (iv.) tennis courts
- (2.) Area and Bulk Regulations. The minimum front, side and rear yards shall conform to the prevailing zoning district regulations but in no instance shall be less than 30 feet.
- (3.) Supplemental Regulations
 - (a.) Such club is incorporated pursuant to the provisions of a Membership Corporation or unincorporated associations approved by the Township Supervisors; and catering exclusively to members and their guests.

- (b.) Such use shall not be conducted primarily as a business enterprise.
- (c.) The use of outdoor public address systems for any purpose shall be approved by the Board of Supervisors.
- (d.) Exterior lighting, other than that essential for the safety and convenience of the users of the premises shall be prohibited. All exterior lighting shall be shielded from the view of all surrounding streets and lots.
- (e.) Screening shall be provided in accordance with the Subdivision and Land Development Ordinance and Section 1607.

1626. Hotels and Motels

- (1.) A site to be used for a hotel or motel establishment shall include an office and lobby and may include such accessory uses as: restaurants, coffee shops, cafeteria-dining halls providing food and drink; amusement and recreation facilities such as a swimming pool, children's playground, tennis or other game sports; and game or recreation rooms.
- (2.) The minimum lot area shall be one (1) acre.
- (3.) All principal and accessory buildings and structures shall cover a total of not more than 35% of the site. A restaurant, coffee shop, cafeteria or dining hall shall not cover more than 10% of the site.
- (4.) The total interior floor area of each guest room, inclusive of bathroom and closet space, shall not be less than 250 square feet.
- (5.) Distance between buildings shall not be less than 25 feet except that this distance may be reduced to 15 feet where no driveway passes between buildings.
- (6.) Points of vehicular ingress and egress shall be limited to two (2) on any street. Off-street parking shall be provided as follows: at least one automobile parking space, carport or garage shall be provided on the site for each guest room, and shall be located within 150 feet of the guest room which it serves; for hotel or motel employees, one additional space shall be provided for each employee on the two largest shifts. Restaurants, cafeterias or coffee shops located within the hotel or motel itself shall provide at least one (1) additional space for every 100 square feet of floor area devoted to patron use. Such uses located on the same site but in separate buildings shall comply with Article XVII as it pertains to that use. All buildings and off-street parking areas shall be at least 50 feet from all lot and street lines, and parking areas serving a restaurant,

cafeteria or coffee shop or dining hall shall be at least 30 feet from all guest rooms.

- (7.) Before the issuance of any building permit, a detailed Land Development Plan for the proposed development of a site for a hotel or motel and accessory facilities shall be submitted to and approved by the Township, as provided in the Township Subdivision and Land Development Ordinance. The Land Development Plan, at a minimum, shall identify the location and size of existing trees, all other landscaping proposed, the architectural style, general design, colors and materials to be used on exterior surfaces and detailed plans for any signs as well as any other information, elevations or perspectives which will enable the Board of Supervisors to recognize the impact of the proposed development on the area involved and to determine conformity with the purpose of this Ordinance.

1627. Seasonal, Hunting Camp, Cabin and Resort-type Facilities

Where seasonal, hunting camp, cabin or resort-type facilities are permitted, the following standards and criteria shall apply:

- (1.) A minimum lot or site area of twenty-five (25) acres shall be provided.
- (2.) A Land Development Plan, in accordance with the South Middleton Township Subdivision and Land Development Ordinance, showing, at a minimum, the following information shall be required:
 - (a.) Proposed site improvements, including streets, paved areas, parking areas, recreational areas, building areas, etc.
 - (b.) Improvement plan layout.
 - (c.) Identification of natural features.
 - (d.) The proposed method of sewage disposal and the supporting design calculations.
- (3.) The applicant shall remove only a minimal amount of natural vegetation from the site.
- (4.) Lot coverage of all buildings and paved areas (impervious area) shall not exceed twenty (20) percent of the total tract area.

1628. Adult Book Stores and Adult Theatres

The Zoning Hearing Board may approve Adult Book Stores and Adult Theatres in the I-2 and I-3 Districts according to the procedures and requirements specified below:

- (1.) Purpose. The purpose of this Section is to provide for the establishment of adult bookstores within the Township at such places, and in such manner, as is appropriate and reasonable; and to establish reasonable regulations which take into consideration the potential for adverse impact from such businesses upon adjoining property owners, occupants and uses.
- (2.) Interpretation and Application. This Section shall be interpreted and applied in a manner consistent with the Constitution and shall not be applied to unduly restrict or infringe upon rights guaranteed thereby.
- (3.) Severability. The provisions of this Section shall be severable and in the event any one thereof shall be determined to be invalid or unenforceable such determination shall not operate to repeal or invalidate the remaining provisions.
- (4.) As used in this Ordinance, the following terms, word and phrases shall have the meanings ascribed to them by this Section:
 - (a.) Adult Book Store: An establishment open to the general public in which twenty (20%) percent or more of the occupied sales or display area offers for sale, for rent or lease, for loan, or for view upon the premises, pictures, photographs, drawings, prints, images, sculpture, still film, motion picture film, video tape, or similar visual presentations distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity, or books, pamphlets, magazines, printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts distinguished or characterized by an emphasis on sexual conduct, or offers for sale of sexual devices.
 - (b.) Adult Theatre: A building or a room within a building open to the general public, used for presenting live entertainment, motion picture film, video tape or similar visual representation of materials distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity.
 - (c.) Sexual Conduct: Ultimate sexual acts, normal or perverted, actual or simulated, involving a person or persons, or a person or persons and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, analingus or physical contact with a person's

nude or partially denuded genitals, pubic area, perineum, anal region, or, if such person be female, a breast.

- (d.) Sexual Device: Any artificial human penis, vagina or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildoes, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies or other such chemicals or preparations.
 - (e.) Sexually Explicit Nudity: The sexually oriented and explicit showing, by any means, including but not limited to, close-up views, poses or depictions in such position or manner which present or expose such areas to the following: postpubertal, full or partially developed human female breast with less than a fully opaque covering of any portion thereof below the top of the areola or nipple; the depiction of covered human male genitals in a discernible turgid state; or lewd exhibition of the human genitals, pubic area, perineum, buttocks or anal region, with less than a fully opaque covering.
- (5.) The use and occupancy of any land, building or structure as an adult book store or an adult theatre shall be subject to the following:
- (a.) An adult bookstore or an adult theatre shall be permitted only in an (I) Industrial District.
 - (b.) An adult book store or an adult theatre shall not be permitted to be located within five hundred (500) feet of any of the following:
 - (i.) Any building or other structure used for residential purposes.
 - (ii.) The geographical boundary line of the I-2 or I-3 Industrial District.
 - (iii.) The geographical boundary line of the Township.
 - (c.) An adult book store or an adult theatre shall not be permitted to be located within one thousand (1,000) feet of any of the following:
 - (i.) Any other adult book store or adult theatre.
 - (ii.) Any public or private school, public park or playground, or any church or other house of worship.

- (d.) No materials, merchandise, or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building or structure.
 - (e.) Any building or structure used and occupied as an adult book store or adult theatre shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, live entertainment or film shall be visible from outside of the building or structure.
 - (f.) Outdoor signs shall clearly identify the business as an "adult" establishment but shall not refer to sex acts or sexual conduct nor incorporate said terms or words or any form or derivation thereof. No sign shall be permitted or erected which graphically depicts nudity or any form of sexual activity.
 - (g.) No overt sexual activity, sexual conduct, sex acts or the solicitation or procurement thereof shall be permitted on the premises.
 - (h.) Live entertainment or dancing shall not include any sexual activity of any kind including masturbation.
 - (i.) No outdoor live dancing, entertainment or live solicitation or advertising of any kind shall be permitted.
- (6.) Any permit granted hereunder shall be subject to revocation or suspension in the event the owner of the premises or any tenant, agent, employee or successor of said owner shall violate this Ordinance or any condition of approval for said permit.

1629. Group Homes

The use and occupancy of any land, building or structure as a group home shall be subject to the following:

- (1.) Any group home shall have a minimum of 350 square feet of habitable floor area provided for each occupant.
- (2.) A common kitchen and dining facility shall be provided and no cooking or dining facilities shall be provided in individual rooms or suites. This provision is not intended to require any kitchen and dining facilities if the affiliated institution provides them elsewhere.
- (3.) All group homes shall be connected to public water and public sanitary sewage facilities.

- (4.) All group homes shall comply with the Federal Life Safety Code, the rules and regulations of the Pennsylvania Department of Labor and Industry, and all other applicable building, safety, and fire codes of the Federal, state or local government.
- (5.) Group homes shall be registered and licensed by either the Federal Government or the Commonwealth of Pennsylvania and shall be in compliance with all applicable rules and regulations of the licensing body.
- (6.) A group home shall not be located within 2,000 feet of any other group home.

1630. Accessory Uses

An accessory use shall only be permitted where it is provided for by this Ordinance, is located on the same lot as the primary use, and the accessory use is one which is subordinate to, clearly incidental to, or customarily a part of, the primary use.

1631. Erection of more than one principle use on a single lot.

In all zoning districts, , more than one (1) principle use may be permitted on a single lot as a conditional use in accordance with Article XX and provided that all lot and yard requirements, standards, and other requirements of this Ordinance shall be met for each structure, as though it were on an individual lot and is a use permitted within the district. In addition, such proposals shall gain approval for a land development plan, and provide individually approved methods of sewage disposal.

1632. Growth Boundary Development Performance Requirements

- (1.) A property is eligible for Growth Boundary Development if all of the following criteria are met:
 - (a.) The property is located in a Zoning District in which Growth Boundary Development is a permitted use;
 - (b.) The property existed on January 1, 1994, has frontage on a public road as designated on the Official Roadway Hierarchy and Functional Classification Map of South Middleton Township; and,
 - (c.) The property share a common boundary of at least 400 feet in continuous length with an RM or RH zoning district, and has access to existing public water and sanitary sewerage facilities.

- (2.) A maximum of twenty percent (20%) of the “Baseline Acreage” shall be available for Growth Boundary Development. The remaining eighty percent (80%) shall be kept under a restrictive covenant that shall run with the property. In addition to the requirements contained in Section 1634, Restrictive Covenants, shall meet the following requirements:
 - (a.) The restrictive covenant shall restrict the land from future development of any non-agricultural uses, except for public parkland, conservation areas, open space, municipal facilities and similar uses, in perpetuity.
 - (b.) The restrictive covenant shall prohibit the extension of roadways, water lines and sanitary sewerage facilities, public or private, across or into the lands kept in open space or agricultural uses, unless approved by the Board of Supervisors.
- (3.) The portion that is developed shall be located adjacent to the common boundary with the RM or RH Zoning District and extend existing public roads and the public sewerage facilities.
- (4.) The density, number and type of uses allowed within a cluster development shall be as follows:
 - (a.) Residential Uses – Permitted within a growth boundary development subject to the following. Development within the growth boundary development shall be subject to all of the requirements of the Residential Medium Density (RM) District (Article VIII), including the requirements of the Subdivision and Land Development Ordinance pertaining thereto.
 - (b.) Industrial Uses - permitted within cluster development are industrial activities directly related to the storage, processing, and production of agricultural products. Lot and Area Regulations for Industrial Uses in the cluster development shall be as set forth herein at Section 1303(1.)(a.).
- (5.) Development within the cluster shall conform to all of the requirements of the South Middleton Township Subdivision and Land Development Ordinance, as amended.

1633. Transferable Development Rights

- (1.) Purpose

The primary purpose of Transferable Development Rights (TDR) is to permanently preserve open land, sensitive natural areas, and rural

community character that would be lost if the land were developed. In addition, this Section is intended to protect property owners' rights, allowing landowners whose land is intended for preservation to transfer their right to develop to other areas of South Middleton Township. It is the particular intention of this Section that the transfer of development rights be utilized to preserve and mitigate the impact of development on the following resources:

- (a.) Prime farmland or agricultural land;
 - (b.) Mature woodlands;
 - (c.) Stream riparian areas with associated wetlands and floodplains; and,
 - (d.) Historic, scenic and cultural resources.
- (2.) Authority
- (a.) The provisions of this Zoning Ordinance which permit transferable development rights allow landowners in areas of South Middleton Township proposed for preservation, called sending areas, to sell the right to develop all, or a portion of their land to landowners in areas of South Middleton Township proposed for additional development, called receiving areas. The transferable development rights provisions set forth below are specifically authorized under Sections 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights acknowledged to be severable and separately conveyable from a sending area to a receiving area.
 - (b.) When landowners in the sending areas sell their right to develop all or a portion of their land, they must deed restrict that portion of land from which development rights are sold against any future development, although it may still be used for purposes that do not involve development, such as agriculture or forestry. When landowners in the receiving area buy development rights from landowners in the sending area, they receive the right to build more homes on their land than they would have been allowed if they had not purchased development rights.
- (3.) Sending Area Qualifications and Calculations.

Owners of tracts that meet the following requirements may sell their development rights:

- (a.) Sending Area Qualifications - The sending area tract of land shall be located within the AC District. The tract shall have a minimum land area of 15 acres (gross) within the AC District, and shall contain at least one of the following resource features:
 - (i.) Prime farmland or agricultural land;
 - (ii.) Stream riparian areas with associated wetlands and floodplains;
 - (iii.) Historic, scenic or cultural resources identified on the South Middleton Township Official Map.
- (b.) The number of transferable development rights available on the sending tract shall be based upon the Baseline Acreage, as calculated in Section 1633, as shown in Table XVI-1.

Table XVI - 1

Baseline Acreage	Number of TDR's available
15 to <30 acres	3
30 to <60 acres	4
60 to <90 acres	5
90 to <120 acres	6
120 to <150 acres	7
Over 150 acres	8 plus one (1) for each 30 acres over 150 acres

- (c.) To facilitate the process by which development rights are transferred, a landowner may request a determination of how many development rights are available on a parcel without having to calculate the Baseline Acreage. The Township Engineer and Zoning Officer; based upon the available information regarding parcel size, available floodplain maps, topographic maps, steep slope maps, special overlay district maps, and other pertinent information, shall determine the number of TDR's available. The determination will be a conservative estimate. The exact number shall be determined by the calculation of the Baseline Acreage.

The Township will issue certificates for the TDR's based upon the preliminary determination by the Township Engineer and Zoning Officer, so that the landowner can market the TDR's. However, prior to transfer of any TDR's, the requirements for Restricted Covenants of this section and the requirements of Sections 1633 and 1634 shall be met.

(d.) Retained Development Rights - Any landowner of a property in a sending area may retain development rights for use on said property. Each developmental right that is retained will allow the development of 3 acres of land. Any development not specifically associated with the agricultural or forestry use of the property, such as residential dwelling, areas for onlot septic system and replacement area, driveway, and garages (except barns) shall be contained within the areas not under restrictive covenants.

(e.) Restricted Covenants

In addition to the requirements contained in Section 1634, Restrictive Covenants for Transferable Development Rights, and except for retained development rights (those not to be transferred if any), the sending tract must be permanently restricted from future development by a conservation easement or other restrictive covenant which meets the following requirements:

(i.) Except where any retained development rights are specified, the restrictive covenant shall permanently restrict the land from future development of any non-agricultural uses, except for public parkland, conservation areas, open space, municipal facilities and similar uses.

(ii.) The restrictive covenant shall apply to the tract of land from which development rights are sold, and shall specify the number of development rights to be transferred, as well as any to be retained, based on the Baseline Acreage of the tract. No portion of the Baseline Acreage used to calculate the number of development rights to be transferred shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights that are to be retained or for development.

(iii.) The amount of area to be that shall be subject to the restrictive covenant shall be determined by subtracting from the Baseline Acreage an amount equal to the number of TDR's retained multiplied by three (3) acres.

(4.) Receiving Area Qualifications and Calculations.

(a.) Owners of properties that meet the following requirements may use development rights that are purchased from sending area landowners:

- (b.) The receiving tract of land shall be located in either the RM or RH Zoning Districts.
- (c.) Landowners in qualifying receiving districts have the right to increase the density of development on their property proportionally with the number of development rights purchased. This increased density shall be calculated as indicated in Sections 803 and 903 of the Ordinance, as applicable.
- (d.) Submittal Process. The applicant shall submit:
 - (i.) An agreement of sale for all development rights proposed to be purchased from the sending area site.
 - (ii.) A note on the plan showing the total number of homes proposed on the receiving area site.
 - (iii.) A note on the plan showing the total number of homes that could be built on the site when development rights are purchased; the number of homes that can be built without purchase of development rights, and the difference between the two. This difference represents the number of additional homes that could be constructed on the site.
 - (iv.) A plan of the sending site(s) from which the applicant proposes to purchase development rights. This plan shall show all information needed to determine the number of development rights that may be sold, as shown in Section 1632. (3.)(b.). In addition, the plan shall be accompanied by a metes and bounds description of the property, as well as the property's parcel number, owner name and address. If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described with metes and bounds.
 - (v.) In order to receive final plan approval, the Applicant must agree to record restrictive covenants for all sending area land whose development rights are being used by the Applicant. These restrictive covenants must meet the requirements of Section 1634. The restrictive covenant on the sending area land shall be recorded first, followed by a Deed of Transfer, in accordance with the provisions of the Pennsylvania Municipal Planning Code, as amended, which transfers the development rights from the sending area land owner to the receiving area land owner.

1634. Calculation of Baseline Acreage

Each site is unique in that it has physical attributes that are unlike those of other sites. Portions of some sites may not be usable. The purpose of this Section is to determine the actual acreage that would be available for development if the entire property were to be considered.

(1.) A landowner desiring to utilize growth boundary development or transfer development rights shall cause a plan of the property to be prepared by a qualified registered professional land surveyor in accordance with the Professional Registration Laws of the Commonwealth of Pennsylvania which depicts:

- (a.) the boundary and gross tract area of the property;
- (b.) buildings that are located on the property;
- (c.) the topography of the property;
- (d.) the extent of any flood plain located on the property;
- (e.) all slopes between fifteen (15) percent and twenty-five (25) percent, and those slopes in excess of twenty-five (25) percent that are located on the property;
- (f.) land within the ultimate right-of-way of roads, railroads, power transmission lines and other utility easements;
- (g.) All acreage currently restricted from further development by covenant, easement or deed restriction;
- (h.) any municipal and/or zoning district boundary lines;
- (i.) areas contained within Special Overlay Districts as per Section XIV of this Ordinance.

(2.) The “Baseline Acreage” for either transfer of development rights sending areas or areas available for growth boundary development shall then be determined by subtracting the following from the total tract area:

- (a.) The number of existing dwelling units on the tract multiplied by three (3) acres;
- (b.) The area in which all slopes between fifteen (15) percent and twenty-five (25) percent, and those slopes in excess of twenty-five

(25) percent that are located on the property, with a twenty-five (25) foot buffer around those areas;

- (c.) The area located within the floodplain;
- (d.) All acreage within ultimate rights-of-way of existing roads and land subject to easements or rights-of-way for railroads, power transmission lines, and other utilities;
- (e.) All acreage currently restricted from further development by covenant, easement or deed restriction;
- (f.) For the transfer of development rights, any portion of the property not within the AC Zoning District.;
- (g.) Any area which may be restricted from development due to its location within an Special Overlay District.

1635. Restrictive Covenants

Restrictive Covenants are applicable to 80% of the original parcel of a Growth Boundary Development, the sending area of Transferable Development Rights, and the residual lot of a subdivision in the AC Zoning District. Those areas shall be subject to the following requirements:

- (1.) A restrictive covenant shall be approved by the Board of Supervisors of South Middleton Township, in consultation with the South Middleton Township Solicitor. Final plan approval will be contingent upon the recording of the restrictive covenant at the Cumberland County Recorder of Deeds.
- (2.) The restrictive covenant shall designate South Middleton Township, and/or a bona-fide conservation organization acceptable to the Township at its sole discretion, as the beneficiary/grantee.
- (3.) The restrictive covenant shall apply to the area to be preserved. No portion of this area shall be used to satisfy minimum yard setbacks or lot area requirements.
- (4.) A Conservation Plan for shall be recorded with and enforceable as part of the restrictive covenant. This Conservation Plan shall:
 - (a.) identify the natural and manmade resources of the site;
 - (b.) Follow the guidelines of the Purpose Statement of the Agricultural and Conservation Zoning District.

- (c.) identify areas restricted as well as areas where any retained development rights may be utilized for Rural Residential Development;
- (d.) demonstrate a sustainable plan for the long term management of the sending tract giving consideration to the following:
 - (i.) the manner in which the restricted areas will be owned and by whom they will be managed and maintained,
 - (ii.) the general character of anticipated development wherever development rights are retained along with any specific design criteria which may be imposed to minimize and/or mitigate impacts of development of the natural and man made resources of the site;
 - (iii.) the conservation, land management and agricultural techniques and practices which will be used to conserve and protect the restricted areas, including conservation plan(s) approved by the Cumberland County Conservation District where applicable;
 - (iv.) the professional and personnel resources that will be necessary in order to maintain and manage the property;
 - (v.) The nature of public or private access that is planned for the restricted areas; and the source of money that will be available to such management, preservation and maintenance on a perpetual basis.
- (5.) Where development rights are retained (see Section 1632), those parcels may be developed in accordance with the requirements of Section 601 of this Ordinance. In order to be utilized, this option must be specified in the restrictive covenants and on the Conservation plan.
- (6.) Agricultural uses not in keeping with the intent statement of this Ordinance may be restricted or denied by the Township.
- (7.) Should South Middleton Township acquire ownership of the sending lands, the land may be used for passive recreation coincidental with municipal purposes that allow for possible municipal uses and continue to promote the conservation of open space, and preservation of scenic resources.

1636. Automobile Repair Facilities

Automobile, bus, class 1 recreation vehicle, boat, motorcycle, and snowmobile service and repair facilities, where permitted, are subject to the following:

- (1.) All service and/or repair activities shall be conducted within a completely enclosed building;
- (2.) All uses involving drive-through service shall provide sufficient on-site stacking lanes to prevent vehicle back-ups on adjoining roads;
- (3.) No outdoor storage of parts, equipment, lubricants, fuel or other materials used or discarded, as part of the service or repair operation, shall be permitted;
- (4.) All exterior storage areas shall be subject to lot coverage requirements and screened from adjoining residentially-zoned properties and roads;
- (5.) The storage of unlicensed vehicles is prohibited;
- (6.) Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directly toward any adjoining residentially-zoned property;
- (7.) All vehicles and machinery shall be repaired and removed from the premises promptly;
- (8.) The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles or parts thereof shall be removed from the site within two (2) weeks of arrival; and,
- (9.) The applicant shall furnish evidence that the storage and disposal of materials will be accomplished in a manner that complies with State and Federal regulations.

1637. Automobile Service Stations (Including Minor Incidental Repair)

Automobile filling stations (including minor incidental repair), where permitted, shall be subject to the following criteria:

- (1.) The subject property shall have a minimum width of one hundred twenty-five feet (125');
- (2.) The subject property shall front on an arterial or collector road;

- (3.) The subject property shall be set back at least three hundred feet (300') from any lot containing a school, day-care facility, park, playground, library, hospital or nursing, rest or retirement home;
- (4.) The outdoor storage of motor vehicles (whether capable of movement or not) for more than one (1) month is prohibited;
- (5.) All structures (including air compressors, kiosks, gasoline pump islands, but not permitted signs) shall be set back at least thirty feet (30') from any street right-of-way line;
- (6.) No outdoor storage of auto parts shall be permitted;
- (7.) Access driveways shall be a minimum of twenty-eight feet (28') and a maximum of thirty-five feet (35') wide and separated by seventy-five feet (75') from one another if located along the same frontage as measured from edge to edge;
- (8.) All ventilation equipment associated with fuel storage tanks shall be oriented away from any adjoining residentially-zoned properties and regulated by the State Fire Marshall; and
- (9.) The applicant shall furnish evidence that the storage and disposal of materials will be accomplished in a manner that complies with State and Federal regulations.

1638. Automobile Washing (Car Washes)

Car washes, where permitted, are subject to the following criteria:

- (1.) Public sewer and public water facilities shall be utilized and gray water recycling is encouraged;
- (2.) For automatic and self-service car washes, each washing bay shall provide a minimum one hundred-foot (100') long on-site stacking lane that precedes the washing process. For full service car washes, such on-site stacking shall be a minimum of three hundred feet (300') per lane;
- (3.) For full service car washes, a post-washing drying area shall be provided for no less than six (6) vehicles per washing lane;
- (4.) All structures housing washing apparatuses shall be set back one hundred feet (100') from any street right-of-way line, fifty feet (50') from any rear property line, and twenty feet (20') from any side lot line;

- (5.) Trash receptacles shall be provided and routinely emptied to prevent the scattering of litter, and the applicant shall furnish and implement a working plan for the cleanup of litter and debris;
- (6.) The subject property shall front on an arterial or collector road; and,
- (7.) The applicant shall demonstrate adequate provision for the collection and disposal of greases and wastes.

1639. Wireless Telecommunications Facilities.

The following regulations shall apply to all Wireless Telecommunications Facilities, except for Wireless Telecommunications Facilities within the Right-of-Way that qualify as “Small Wireless Facilities” as defined in and as governed by Section 1639.1 of this South Middleton Township Zoning Ordinance

Wireless Telecommunications Facilities where permitted, are subject to the following:

- (1.) Application and Other Requirements
 - (a.) All applications for the construction or installation of new Wireless Communications Facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the Applicant. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State of Pennsylvania. The application shall include the following information:
 - (i.) Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Township. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
 - (ii.) The name, address and phone number of the person preparing the report;
 - (iii.) The name, address, and phone number of the property owner, operator, and applicant (to include signatures of the aforementioned individuals), and to include the legal form of the applicant;

- (iv.) The postal address and tax map parcel number of the property;
- (v.) The zoning district or designation in which the property is situated;
- (vi.) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
- (vii.) The location of the nearest residential structure;
- (viii.) The location, size and height of all structures on the property which is the subject of the Application;
- (ix.) The location, size and height of all proposed and existing antennae and appurtenant structures;
- (x.) The type, locations and dimensions of all proposed and existing landscaping and fencing;
- (xi.) The number, type and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users;
- (xii.) The make, model and manufacturer of the Tower and Antenna(s);
- (xiii.) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (xiv.) The frequency, modulation and class of service of radio or other transmitting equipment;
- (xv.) The actual intended transmission and the maximum effective radiated power of the Antenna(s);
- (xvi.) Direction of maximum lobes and associated radiation of the Antenna(s);
- (xvii.) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC'

- (xviii.) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
- (xix.) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
- (xx.) Certification that a topographic and geomorphologic study and analysis had been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site.

In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the Township. Copies of written requests and responses for shared use shall be provided to the Township in the Application, along with any letters of rejection stating the reason for rejection.

Incomplete applications will be rejected forthright.

- (b.) The Applicant shall certify that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all local, Township, State and Federal structural requirements for loads, including wind and ice loads.
- (c.) It is the obligation of the applicant to effectively and completely screen the base and all related facilities and structures of the proposed Wireless Telecommunications Facilities. The Applicant shall demonstrate and provide in writing how this screening shall be accomplished.
- (d.) Any and all representations made by the Applicant to the Township on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Township.
- (e.) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Township, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

- (f.) All Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility. If in the judgment of the governing body, the Wireless Telecommunications Facility is not the least visually intrusive possible or does not have the least adverse visual effect on the environment, such shall be a basis for rejecting the application.
- (g.) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall be required to use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the Township. Failure to do so shall be a basis for rejecting the application.
- (h.) At a Telecommunications Site, an access road, turnaround space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (i.) An Applicant shall submit to the Township the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities and to the Township Planning Department.
- (j.) The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial applications, for example, future co locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

- (i.) The foreseeable number of FCC licenses available for the area;
 - (ii.) The kind of Wireless Telecommunications Facilities site and structure proposed;
 - (iii.) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
 - (iv.) Available space on existing and approved Towers.
- (k.) Any waiver is entirely at the discretion of the governing body. The owner of the proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:
- (i.) Respond within sixty (60) days to a request for information from a potential shared-use Applicant;
 - (ii.) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
 - (iii.) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - (iv.) A copy of the co-location agreement must be provided and approved by the governing body.
 - (v.) Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit for the Tower.
- (l.) There shall be a pre-application meeting. The purpose of the pre application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the Township's consultants

to prepare for and attend the pre-application meeting will be borne by the Applicant.

- (m.) Holder of a Conditional Use Permit shall notify the Township of any intended modification of a Wireless Telecommunications Facility and shall apply to the Township to modify, relocate or rebuild a Wireless Telecommunications Facility.
- (n.) In order to better inform the public, in the case of a new Telecommunication Tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Township. The Applicant shall inform the Township, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours sometime between 7:00 AM and 7:00 PM on the dates chosen.
- (o.) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the Tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.
- (p.) Timing of Approval. Within thirty (30) calendar days of the date that an application for a telecommunications tower is filed with the Township, the Township shall notify the WTF applicant in writing of any information that may be required to complete such application. All applications for telecommunications towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such telecommunications tower and the Township shall advise the WTF applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WTF applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.

(2.) Shared Use of Wireless Telecommunications Facilities and Other Structures.

- (a.) Locating on existing Towers or other structures without increasing the height, shall be preferred by the Township, as opposed to the construction of a new Tower in the I-1, I-2 and I-3 Zoning Districts. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within four (4) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively when an existing Tower or other suitable structure cannot be used.
- (b.) An applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.
- (c.) Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the Township, to the extent practicable, unless good cause is shown.

(3.) Height of Telecommunications Tower(s).

- (a.) The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefor. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Township, to the extent practicable, unless good cause is shown.
- (b.) Building mounted antennae should be located and designed to be an integral part of the building and shall be secured or camouflaged, as necessary or as reasonably required by the Board, to minimize the visual impact on surrounding properties and minimize any change in or impact on the nature and character of the community.
- (c.) No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Township, State, and/or any Federal statute, law, local law, Township ordinance, code, rule or regulation or 200 feet, whichever is less.

(4.) Appearance and Visibility of Wireless Telecommunications Facilities.

- (a.) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
- (b.) Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
- (c.) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

(5.) Lot Size and Setbacks.

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, which ever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

(6.) Retention of Expert Assistance and Reimbursement by Applicant.

- (a.) The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the Application, including the construction and modification of the site, once permitted.
- (b.) An Applicant shall deposit with the Township funds sufficient to reimburse the Township for all reasonable costs of consultant and expert evaluation and consultation to the Township in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the Township shall precede the pre-application meeting. The Township will maintain a separate escrow account for all such funds. The Township's consultants/experts shall invoice the Township for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the Township,

replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Township before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Township is more than the amount of the actual invoicing, the remaining balance shall be refunded to the Applicant at the conclusion of the project.

- (c.) The total amount of the funds needed as set forth in subsection (b) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

(7.) Extent and Parameters of the Conditional Use Permit for Wireless Telecommunications Facilities.

The extent and parameters of a Conditional Use Permit for Wireless Telecommunications Facilities shall be as follows:

- (a.) Such Conditional Use Permit shall be non-exclusive:
- (b.) Such Conditional Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the Township.
- (c.) Such Conditional Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Conditional Use Permit.

(8.) Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Township a bond, or other form of security acceptable to the Township as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 and with such sureties as are deemed sufficient by the Township to assure the faithful performance of the terms and conditions of the Ordinance and conditions of a Conditional Use Permit issued pursuant to the Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is

completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Conditional Use Permit.

(9.) Default and/or Revocation.

- (a.) If Wireless Telecommunication Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit, then the Township shall notify the holder of the Conditional Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non compliance and that the violations must be corrected within sixty (60) days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Township may, at its sole discretion, order the violation remedied.
- (b.) If within the period set forth in (a) above the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Ordinance, or of the Conditional Use Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the Township may revoke such Conditional Use Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Conditional Use Permit within forty-eight (48) hours of such action.

(10.) Removal of Wireless Telecommunication Facilities.

- (a.) Under the following circumstances, the Township may determine that the health, safety, and welfare interests of the Township warrant and require the removal of Wireless Telecommunications Facilities:
 - (i.) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days

- (ii.) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - (iii.) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or any other necessary authorization.
- (b.) If the Township makes such a determination as noted in subsection (a) of this section, then the Township shall notify the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunication Facilities are to be removed, the Township may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunication Facilities.
- (c.) The holder of the Conditional Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Township. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Township.
- (d.) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the permit holder has received notice, then the Township may order officials or representatives of the Township to remove the Wireless Telecommunications Facilities at the sole expense of the owner of Conditional Use Permit holder.
- (e.) If the Township removed, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the Township may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.
- (f.) Notwithstanding anything in this Section to the contrary, the Township may approve a temporary use permit/agreement for the

Wireless Telecommunications Facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Conditional Use Permit, subject to the approval of the Township, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit and the Township. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Township may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

(11.) Adherence to State and/or Federal Rules and Regulations.

(a.) Notwithstanding anything in this Section to the contrary, the Township may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Conditional Use Permit, subject to the approval of the Township, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit and the Township. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Township may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

(b.) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

(12.) The following regulations shall apply to all collocated telecommunications antennas that do not substantially change the physical dimensions of the wireless support structure to which they are attached, or that otherwise fall under the Pennsylvania Wireless Broadband Collocation Act.

- (a.) Permit Required. WTF applicants are subject only to the building permit process. WTF applicants shall not be subject to the zoning approval process so long as their applications do not trigger any of the exemptions of the WBCA.
 - (b.) Timing of Approval for Applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a telecommunications antenna is filed with the Township, the Township shall notify the WTF applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WTF applicant in writing of such decision. The Township shall notify the WTF applicant as to completeness of the WTF application within thirty (30) days of receipt. The timing requirements in this section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.
 - (c.) Related Equipment. Ground-mounted related equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or zoned residential.
 - (d.) 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 telecommunications antenna or \$1,000, whichever is less.
- (13.) Wireless Telecommunications Facilities in the Public Rights-of-Ways
- (a.) The following regulations shall apply to telecommunications antennas located in the public rights-of-way:
 - (i.) Co-Location. Telecommunications antenna in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically feasible, the WTF applicant shall locate its telecommunications antenna on existing poles or freestanding structures that do not already act as wireless support structures with the Township's approval.
 - (ii.) Design Requirements.

- (1.) Antenna installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - (2.) Antenna and related equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- (iii.) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all telecommunications antenna in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (iv.) Equipment Location. Telecommunications antennas and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- (1.) In no case shall ground-mounted related equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot;
 - (2.) Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible,

through the use of landscaping or other decorative features to the satisfaction of the Township.

- (3.) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (4.) Any graffiti on any wireless support structures or any related equipment shall be removed at the sole expense of the owner.
 - (5.) Any proposed underground vault related to telecommunications antenna shall be reviewed and approved by the Township.
- (v.) Relocation or Removal of Facilities. Within two (2) months 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, an owner of an antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (1.) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (2.) The operations of the Township or other governmental entity in the right-of-way;
 - (3.) Vacation of a street or road or the release of a utility easement; or
 - (4.) An emergency as determined by the Township.
- (b.) The following regulations shall apply to telecommunications towers located in the public rights-of-way.

(i.) Location and Development standards.

- (1.) Telecommunications towers shall not exceed forty (40) feet in height.
- (2.) Telecommunications towers are prohibited in areas in which utilities are located underground.
- (3.) Telecommunications towers shall not be located in the front façade area of any structure.
- (4.) Telecommunications towers shall be permitted along arterial roads throughout the Township, regardless of the underlying zoning district, provided that they are not situated within fifty (50) feet of an area in which utilities are underground. A map of such permitted roads is kept on file at the Township zoning office.

(ii.) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all telecommunications towers in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

(iii.) Equipment Location. Telecommunications towers and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

- (1.) In no case shall ground-mounted related equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb.
- (2.) Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.

- (3.) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
- (4.) Any graffiti on the tower or on any related equipment shall be removed at the sole expense of the owner.
- (5.) Any underground vaults related to telecommunications towers shall be reviewed and approved by the Township.

(iv.) Design Regulations.

- (1.) The tower shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WTF applicant shall be subject to the approval of the Township.
- (2.) To the extent permissible under State and Federal law, any height extensions to an existing telecommunications tower shall require prior approval of the Township, and shall not increase the overall height of the telecommunications tower to more than forty (40) feet.
- (3.) Any proposed telecommunications tower shall be designed structurally, electrically, and in all respects to accommodate both the WTF applicant's antennae and comparable antennae for future users.

- (v.) Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonable necessary or such shorter period in the case of an emergency, an owner of a telecommunications tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any tower when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall

determine that such removal, relocation, change or alteration is reasonable necessary under the following circumstances:

- (1.) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (2.) The operations of the Township or other governmental entity in the right-of-way;
 - (3.) Vacation of a street or road or the release of a utility easement; or
 - (4.) An emergency as determined by the Township.
- (vi.) Reimbursement for ROW Use. In addition to permit fees as described in this section, every telecommunications tower 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 telecommunications tower 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.
- (vii.) Gap in Coverage. A WTF applicant for a telecommunications tower must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of tower being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of telecommunications towers.
- (viii.) Timing of Approval. Within thirty (30) calendar days of the date that an application for a telecommunications tower is filed with the Township, the Township shall notify the WTF applicant in writing of any information that may be required to complete such application. All applications for telecommunications towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such telecommunications towers and the Township shall advise the WTF applicant in writing of its decision. If additional information was requested by the Township to

complete an application, the time required by the WTF applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.

1639.1. Regulation of Small Wireless Facilities

(1.) **Definitions**

For the purposes of this Section 1639.1, the terms below shall have the meanings given 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.

- (a.) “**Accessory Equipment**” means any equipment serving or being used in conjunction with a Small Wireless Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, and storage sheds, shelters, or similar structures.
- (b.) “**Antenna**” means telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.
- (c.) “**Applicable Codes**” means all applicable federal and state laws, regulations and standards that comply with Act 50. The term shall also include all ordinances, resolutions, or policies of the Township regulating:
 - (i.) Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
 - (ii.) Local zoning, land use, streets and sidewalks, Right-of-Way and permitting ordinances or other local rules or regulations that comply with Act 50.
- (d.) “**Applicant**” means a Communications Service Provider that submits an Application.
- (e.) “**Application**” means a formal request, including all required and requested documentation and information, submitted by an Applicant to the Township for a Wireless Permit.

- (f.) **“Collocate”** or **“Collocation”** means to install, mount, maintain, Modify, or replace Small Wireless Facilities on an existing Utility Pole or other Wireless Support Structure.
- (g.) **“Communications Service Provider”** means any of the following:
 - (i.) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).
 - (ii.) A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).
 - (iii.) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(51)).
 - (iv.) A Wireless Provider.
- (h.) **“FCC”** means the Federal Communications Commission.
- (i.) **“Historic District or Building”** means a building that is or a group of buildings, properties or sites that are:
 - (i.) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.
 - (ii.) Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).
 - (iii.) Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).
 - (iv.) Within a historic district created pursuant to the act of June 13, 1961 (P.L. 282, No. 167), entitled “An act authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries;

providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts.”

- (j.) **“Micro Wireless Facility”** means a Small Wireless Facility that:
 - (i.) Does not exceed two cubic feet in volume; and
 - (ii.) Has an exterior Antenna no longer than 11 inches.
- (k.) **“Modification”** or **“Modify”** means the improvement, upgrade or replacement of a Small Wireless Facility or an existing Utility Pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the Small Wireless Facility or Utility Pole.
- (l.) **“Municipal Pole”** means a Utility Pole owned, managed, or operated by or on behalf of the Township.
- (m.) **“Person”** means a natural person, firm, partnership, company, association, trust, corporation, or other legal entity. The singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter, whatever appropriate.
- (n.) **“Right-Of-Way”** means the area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a Federal interstate highway.
- (o.) **“Small Wireless Facility”** means the equipment and network components, including Antennas, transmitters, and receivers, used by a Wireless Provider that meet the following qualifications:
 - (i.) Each Antenna associated with the deployment is no more than three cubic feet in volume.
 - (ii.) The volume of all other equipment associated with the Wireless Facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the Small Wireless Facility shall not be included in the calculation of equipment volume under this paragraph.
- (p.) **“Technically Feasible”** means that, by virtue of engineering or spectrum usage, the proposed placement for a Small Wireless

Facility or its design or site location can be implemented without a material reduction in the functionality of the Small Wireless Facility.

- (q.) **“Township”** means the Township of South Middleton, Cumberland County, Pennsylvania.
- (r.) **“Township’s Designee”** means the person(s) or entity(s) selected by the Township as responsible for initial processing of the Application.
- (s.) **“Utility Pole”** means a pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for Collocation. The term includes the vertical support structure for traffic lights but does not include Wireless Support Structures or horizontal structures to which signal lights or other traffic control devices are attached.
- (t.) **“Wireless Facility”** is defined as follows:
 - (i.) Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:
 - (ii.) Equipment associated with Wireless Services.
 - (iii.) Radio transceivers, Antennas, coaxial or fiber optic cables, regular and backup power supplies, or comparable equipment, regardless of technological configuration.
 - (iv.) The term includes a Small Wireless Facility.
 - (v.) The term does not include any of the following:
 - (1.) The structure or improvements on, under or within which the equipment is Collocated.
 - (2.) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular Antenna.
- (u.) **“Wireless Infrastructure Provider”** means a person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless communication transmission equipment, Wireless Facilities or Wireless Support Structures but is not a Wireless Services Provider.

- (v.) **“Wireless Permit”** or **“Permit”** means a permit issued by the Township pursuant to this Section and authorizing the placement or Modification of a Small Wireless Facility of a design specified in the permit at a particular location within the Right-of-Way, and the placement or Modification of any existing Wireless Support Structure to which the Small Wireless Facility is proposed to be attached.
- (w.) **“Wireless Permittee”** or **“Permittee”** means the lawful holder of a Wireless Permit.
- (x.) **“Wireless Provider”** means a Wireless Infrastructure Provider or a Wireless Services Provider.
- (y.) **“Wireless Services”** means services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using Wireless Facilities.
- (z.) **“Wireless Services Provider”** means a person or entity which provides Wireless Services.
- (aa.) **“Wireless Support Structure”** means a freestanding structure, including a Utility Pole, Municipal Pole, or other existing or proposed freestanding structure that could support the placement or installation of a Wireless Facility if approved by the Township.

(2.) Scope

- (a.) **Applicability.** Unless otherwise exempted, every Applicant who wishes to place a Small Wireless Facility in the Right-of-Way or Modify an existing Small Wireless Facility in the Right-of-Way must obtain a Wireless Permit under this Section.
 - (i.) **Exempt Facilities.** The Township shall not require an Application for the following unless the work involves excavation, closure of a sidewalk, or closure of a vehicular lane in which case a Permit shall still be required:
 - (1.) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility Poles by or for a Communications Service Provider authorized to occupy the Right-of-Way, in compliance with the National Electrical Safety Code. However, a Micro Wireless Facility owner shall comply with all Applicable Codes, and shall provide the Township with written notice at least ninety (90) days prior to the installation, placement, maintenance, operation, or replacement of a Micro

Wireless Facility. While an Application is not required for a Micro Wireless Facility, they shall be subject to all other provisions of this Section.

(2.) Routine maintenance or repair work.

(3.) The replacement of Small Wireless Facilities with Small Wireless Facilities that are substantially similar or the same size or smaller and still qualify as a Small Wireless Facility.

The exemptions from Applications provided for herein shall not relieve the party performing such work from compliance with the permitting or application requirements that may otherwise apply pursuant to the Applicable Codes of the Township including, but not limited to, permits for excavation-related work.

(3.) Applications for Small Wireless Facilities

(a.) Application Process.

- i. Small Wireless Facilities in the Right-of-Way shall be treated as a permitted use in all areas of the Township and shall be reviewed by the Township for conformity with all Applicable Codes.
- ii. Zoning Permit Applications for Small Wireless Facilities shall be submitted to the Township, or, if applicable, the Township's Designee. All Applicants shall submit both a paper copy and an electronic copy of any Application, as well as any amendments or supplements to the Application or responses to requests for information regarding an Application. An Application is not complete until both the paper and electronic copies are received.
- iii. A single Applicant seeking to Collocate is permitted to submit a consolidated application for Collocation of up to 20 Small Wireless Facilities. An Applicant, however, may not submit more than one consolidated or 20 single Applications for Collocated Small Wireless Facilities in a 30-day period. If the Township receives more than one consolidated Application or 20 single Applications within a 45-day period, then the applicable timeframe for processing applications specified in this Section shall be extended by 15 days.
- iv. Applications are public records that may be subject to disclosure under the Pennsylvania Right-to-Know Law. The Applicant must designate any portions of the Application materials that it reasonably believes contain proprietary or

confidential information by clearly and conspicuously marking each portion of such materials accordingly. If the Township determines that the information is subject to disclosure, such determination shall be conclusive. If the Township determines that a right-to-know request asks for proprietary or confidential information regarding a Small Wireless Facility, then the Township shall notify the relevant Applicant within five (5) days of receiving said request pursuant to the Right-to-Know Law. The Applicant and Township shall use all reasonable efforts to coordinate a response pursuant to the Right-to-Know Law. If the Applicant determines that the requested information is considered confidential or proprietary information as defined by the Right-to-Know Law, or that any other exemption applies, then the Applicant shall notify the Township within five (5) days of it receiving notification from the Township. If the Applicant requests that the Township deny a request pursuant to the Right-to-Know Law, then the Applicant shall be required to enter into an agreement with the Township indemnifying the Township for any and all legal expenses incurred by the Township as a result of any challenge to the denial.

- v. Applicant must pay an application fee for each Application or consolidated Application pursuant to a fee schedule adopted by the Township as amended from time-to-time by resolution or otherwise. Where no such fee schedule has been adopted, Applicant shall pay:
 - (1.) Five hundred (\$500.00) dollars for an Application seeking approval for no more than five Collocated Small Wireless Facilities and \$100 for each Collocated Small Wireless Facility beyond five.
 - (2.) One thousand (\$1,000.00) dollars for an Application seeking approval of a Small Wireless Facility that requires the installation of a new or replacement Utility Pole.
 - (3.) Application fees are non-refundable and will not be returned to the Applicant even where Applicant chooses not to proceed with construction or installation of the Small Wireless Facility.
- vi. In addition to the Application process set forth herein, Applicant shall be responsible, as may be required by law, to obtain any other governmental or regulatory permits and

approvals required for the installation or Modification of a Small Wireless Facility. The Township shall not be liable as a result of accepting an Application or issuing a Permit in the event that an Applicant is prevented from placing and/or maintaining its Small Wireless Facility pursuant to this Section.

vii. Applications for Small Wireless Facilities shall include the following:

(1.) Full and complete payment of all applicable Permit Application fees.

(2.) A completed Zoning Permit Application form, to the extent the Township may adopt the same from time-to-time, signed by an authorized representative of the Applicant and made subject to all standard Permit conditions specified in this Section.

(3.) In the absence of an Application form, Applicant shall submit an Application packet consisting of a cover letter and all required supporting documentation. The Applicant shall detail the location of the proposed site(s), all equipment and Accessory Equipment being proposed as part of the Small Wireless Facility, and shall certify that the Applicant has included all information required by the Township and by all Applicable Codes. The Application packet shall be signed by an authorized representative of the Applicant. The cover letter shall also include the Applicant's name (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative responsible for the Application. If the Applicant is a Wireless Infrastructure Provider, the name and contact information for all Wireless Service Providers that will use the proposed Small Wireless Facility must be provided. Applicant shall also self-certify subject to 18 Pa.C.S. § 4904 that the filing and approval of the Application is required by the Wireless Provider to provide additional capacity or coverage for Wireless Services.

(4.) Applicant's construction plans and drawings including, but not limited to, a description of the required work and renderings of the proposed Small Wireless Facility and the proposed site. Said plans and drawings shall show all equipment being proposed as part of the Small Wireless Facility, detailed site plans showing the location of the

Small Wireless Facility, and details regarding proposed construction and/or excavations, if any. Photo simulations depicting the Small Wireless Facility from at least three locations near the proposed site shall also be included.

- (a.) If the Small Wireless Facility is proposed for Collocation on an existing or replacement Utility Pole or Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - (b.) If the proposed Small Wireless Facility will be installed on a new or replacement Utility Pole or Wireless Support Structure, the depiction shall include the color, dimensions, material, and type of Utility Pole or Wireless Support Structure proposed.
 - (c.) Applicant's construction plans and drawings shall also comply with and include any information required by the Township's Wireless Facilities Design Manual.
- (5.) The manufacturer and model, proposed location, and physical dimensions, including weight and volume, of each piece of equipment proposed as part of the Small Wireless Facility.
 - (6.) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small Wireless Facility and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
 - (7.) A seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state, and federal laws and regulations applicable to the proposed Small Wireless Facility, including applicable standards for radiofrequency emissions.
 - (8.) Certification of the Application's compliance with all requirements of this Section.
 - (9.) Proof that the Applicant has mailed to the owners of all property within 150 feet of the proposed Small

Wireless Facility a notice that the Applicant is submitting an Application to the Township for placement or Modification of a Small Wireless Facility in the Right-of-Way, which notice must include:

- (a.) The proposed location of the Small Wireless Facility, and
 - (b.) A description and scale image of the proposed Small Wireless Facility consistent with that contained in the Application.
- (10.) A detailed request for, and explanation of the justification in support of, any variance or special exception requested from the requirements of this Section.
- (11.) Where an Application is made to install a Small Wireless Facility with a new Utility Pole, the Application must include sufficient information to demonstrate that an Applicant cannot meet the service reliability and functional objectives of the Application by Collocating on an existing Utility Pole or Municipal Pole instead of installing a new Utility Pole. To demonstrate this requirement, the Applicant may submit with its Application a certification that it has made this determination in good faith and shall also provide a supporting documented summary of the basis for the determination. The Applicant's determination in this regard shall be based on whether the Wireless Provider can meet the service objectives of the Application by Collocating on an existing Utility Pole or Municipal Pole on which:
- (a.) The Applicant has the right to Collocation;
 - (b.) The Collocation is Technically Feasible and would not impose substantial additional cost; and
 - (c.) The Collocation would not obstruct or hinder travel or have a negative impact on public safety.

An Application shall not be administratively complete unless all of the required elements set forth above are included in the Application.

viii. Timing of Application Review.

- (1.) Within 10 business days of receiving an Application, the Township will determine and notify the Applicant in writing whether the Application is incomplete. If the Township determines that an Application is incomplete, the written notice will specifically identify the information not included with the Application. The time for the Township to process the application shall restart on the date the Applicant provides all of the information required to complete the Application. The processing deadline may be tolled or extended by a written agreement of the Applicant and the Township. Receipt of an Application may occur on any business day of the Township.
- (2.) The Township shall process Applications on a nondiscriminatory basis and Applications shall be deemed approved if the Township fails to approve or deny the Application within 60 days of receipt of a complete Application to Collocate and within 90 days of receipt of a complete Application to replace an existing Utility Pole or install a new Utility Pole with Small Wireless Facilities attached. A Permit associated with an Application deemed approved under this subsection shall be deemed approved if the Township fails to approve or deny the Permit within seven business days after the date of filing the Permit Application with the Township unless there is a public safety reason for the delay. An Applicant shall provide written notice to the Township within 72 hours of when it discovers that a deemed approval has occurred. Written notice may be received by USPS or courier.
- (3.) Where the Township denies an Application because of defects found therein, the Applicant may cure the deficiencies identified by the Township and resubmit the Application within thirty (30) days of receiving the written basis for the denial. No Permit Application fee is required for an Application resubmitted pursuant to this section. Following resubmission, the Township shall approve or deny the Application within thirty (30) days of the resubmission date. An Applicant shall not be entitled to more than one submission.

- ix. Once approved, the Applicant shall be required to coordinate installation of the Small Wireless Facility to result in the least interference with the public use of the Right-of-Way as possible
- (b.) **Placement.** Small Wireless Facilities and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the Right-of-Way as determined by the Township in its sole discretion.
- (c.) **Deadlines for Completion.** Any Permittee granted a Permit pursuant to this Section for purposes of Collocation, Modification, or replacement of a Small Wireless Facility, including installation of a new Wireless Support Structure with a Small Wireless Facility attached shall complete the construction work that is the subject of said Permit within one year of the date the Permit is issued. The Township and any Applicant or Permittee may agree in writing to extend the period of construction for a period of greater than one year.
- (d.) **Compensation for Right-of-Way Use.** The holder of any Permit issued for a Small Wireless Facility pursuant to this Section shall pay the Township an annual fee for use and occupancy of the Right-of-Way. The fee shall be established pursuant to a fee schedule adopted by the Township as amended from time-to-time by resolution or otherwise. Where no such fee schedule has been adopted, the fee shall be \$270 per Small Wireless Facility or \$270 per new Utility Pole with a Small Wireless Facility.

The Permittee and/or owner of each Small Wireless Facility shall be invoiced for the first annual fee on the date the Permit is issued, prorated based on the proportion of the calendar year then remaining. Subsequent invoicing shall be prospective and occur each January. Said invoices shall be paid within thirty (30) days of receipt thereof. Any unpaid invoice shall be subject to interest accruing on the unpaid amount at eighteen percent (18%) per annum beginning on the 31st day from the date of invoice until paid.

- (e.) **Design Guidelines and Aesthetic Requirements.** Small Wireless Facilities shall be designed, installed, operated, and maintained in compliance with all design guidelines, aesthetic requirements, or concealment measures adopted or amended by the Township from time-to-time. Such requirements, if any, are contained in the Wireless Facilities Design Manual, a copy of which shall be kept on file in the Township office. Applicant's design shall comply with all other Applicable Codes of the Township including the Township's Zoning Ordinance. The Wireless Facilities Design Manual, located in the Appendix, may be amended by resolution from time-to-time by a resolution of the Township Board of Supervisors.

(4.) General Requirements

(a.) Compliance.

- i. The Small Wireless Facility Applicant shall submit proof of compliance with all Applicable Codes, including but not limited to Act 50 and those established by the FCC, as part of any complete Small Wireless Facility Application.
- ii. If such Applicable Codes are modified, the Permittee of the Small Wireless Facility shall bring such Small Wireless Facility into compliance with the modified Applicable Codes within three (3) months of the effective date of such Applicable Codes unless a different compliance term is required by the controlling state or federal agency. Failure to bring such Small Wireless Facilities into compliance shall constitute grounds for revocation of a Permit and the removal of the Small Wireless Facility at the Permittee's expense.
- iii. All Small Wireless Facilities shall meet or exceed all applicable standards set forth by the state or federal government, as well as any applicable industry standard. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the Applicant or Permittee, as applicable, and shall be provided to the Township.
- iv. Small Wireless Facilities shall be installed and Modified in a manner that:
 - (1.) Ensures that placement of Small Wireless Facilities on existing structures is within the tolerance of those structures.
 - (2.) Ensures that the Applicant's or Permittee's use does not inconvenience the public, interfere with the primary uses of the Right-of-Way, or hinder the ability of the Township or other government entities to improve, modify, relocate, abandon, or vacate the Right-of-Way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the Right-of-Way.
 - (3.) Ensures that the Applicant's or Permittee's use does not obstruct, endanger, or hinder travel or public safety within a Right-of-Way, damage or interfere with other utility facilities located within a Right-of-Way or obstruct or interfere with the legal use of the Right-of-Way by the Township or other utility.
 - (4.) Ensures that the Township bears no risk or liability because of the installation or Modification of a Small Wireless Facility.

- (v.) Small Wireless Facilities in the public Right-of-Way requiring the installation of a new Wireless Support Structure shall not be located immediately in front of any building entrance or exit.
 - (vi.) All Small Wireless Facilities shall comply with all applicable requirements of the Americans with Disabilities Act and all Applicable Codes, including those applicable to streets and sidewalks.
 - (vii.) No Small Wireless Facility shall be installed, Modified, placed, operated, repaired, or maintained in a manner that causes, or is likely to cause, interference with the Township's infrastructure, equipment, or services. Said infrastructure, equipment, and services include, but are not limited to, the Township's traffic signal system, public safety radio system, electric distribution system, or Township communications system. If a Small Wireless Facility causes such interference, then the Permittee, at its own expense, shall take all steps necessary to immediately correct and eliminate the interference. The Township may terminate a Permit for a Small Wireless Facility based on such interference if the interference is not remedied by the Permittee.
- (b.) **Attachment to Municipal Structures.** Subject to the requirements and processes of this Section, Act 50, and all Applicable Codes, Applicants are permitted to Collocate Small Wireless Facilities on Municipal Poles. The Township will allow Collocation on Municipal Poles using the process required under Act 50 and Applicable Codes unless:
- i. The Small Wireless Facility would cause structural or safety deficiencies to the Municipal Pole, in which case the Township and Applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the Small Wireless Facility as otherwise required in this Section; or
 - ii. The Township has reserved the space on the Municipal Pole for other public purposes.
- The Township shall allow the Collocation of Small Wireless Facilities to structures owned by the Township in the following preferred order, from most to least preferable:
- (1) Traffic signage poles without traffic signals;
 - (2) Traffic signage poles with traffic signals;
 - (3) Non-decorative light poles;
 - (4) Telecommunications poles;

(5) Decorative light poles.

If the Small Wireless Facility Applicant is proposing the Collocation of a Small Wireless Facility on a lower preference structure, it shall be a condition to the approval of the Application that the Small Wireless Facility Applicant provide evidence that Collocation on a higher preference structure or Wireless Support Structure owned by a third-party is not Technically Feasible. The cost of Collocating on a higher preference structure or Wireless Support Structure shall not be included in evaluating Technical Feasibility. Collocation of a Small Wireless Facility on a Municipal Pole shall not create or vest in any Applicant, Wireless Provider, or Wireless Service Provider any ownership or property rights in such Municipal Poles except as expressly provided for in this Section or pursuant to applicable law.

This Section shall not be construed to require the Township to construct, retain, extend, place, or maintain any Municipal Pole or other municipal facilities not needed for the Township's own utility service requirements.

An Applicant has no right to object to the Township granting permission to any party regarding use of a Municipal Pole.

Where applicable, an Applicant's Collocation of a Small Wireless Facility on a Municipal Pole shall be placed and maintained at all times in accordance with the requirements, specifications, rules and regulations of the latest edition of the National Electrical Safety Code and subsequent revisions thereof, any governing authority having jurisdiction, this Section, and any reasonable design standards and rules governing pole attachments in the Township as the Township may adopt from time-to-time, and shall be otherwise consistent with generally accepted industry standards.

If requested by the Township, each Small Wireless Facility Collocated on a Municipal Pole shall be identified at all times by an identifying marker/band/tag stating the name of person holding the Permit. The marker/band/tag shall, at a minimum, (a) be reasonably durable under the typical weather conditions in the area and (b) have coloring unique to the person holding the Permit. If the Township elects to require marking/banding/tagging by the Wireless Permittee, the Township shall provide the Permittee information concerning the type and color of marker/band/tag to be used in satisfying the requirements of this section. Such markers/bands/tags shall also be capable of being read unaided from the ground by an adult of typical height and vision.

Make-ready work shall be performed as specified in Section 1639.1(H)(8) of this Section.

(c.) **Insurance.** Each Permittee and any person who owns or operates a Small Wireless Facility shall annually provide the Township with a certificate of insurance, in a form satisfactory to the Township Solicitor, 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 Small Wireless Facility and naming the Township as

an additional insured on each insurance policy. All Permits issued for location of a Small Wireless Facility pursuant to this Section shall be deemed to be revoked in the event said insurance policy is cancelled, expires, or ceases to exist.

- (d.) **Outdated Equipment.** As part of the construction, Modification, or replacement of a Small Wireless Facility, the Permittee shall remove any obsolete or abandoned equipment from the Wireless Support Structure or Utility Pole.
- (e.) **Weather.** All Small Wireless Facilities shall be designed to withstand the effects of wind, ice, water, and heat 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.
- (f.) **Inspection Reports.** All Permittees shall submit inspection reports to the Township upon request to ensure structural integrity and compliance with all Applicable Codes. Inspection reports shall be delivered to the Township by the Permittee within thirty (30) days of request by the Township. These inspection reports may include, but are not limited to, descriptions of routine maintenance or repair work, and descriptions of the physical degradation of a Small Wireless Facility.
- (g.) **Maintenance.** The following maintenance requirements shall apply:
 - (i.) All Small Wireless Facilities 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 Small Wireless Facility, to promote the health, safety, and general welfare of the Township's residents, and to remain compliant with all Applicable Codes.
 - (iii.) All maintenance activities shall utilize nothing less than the best available technology in accordance with the applicable standard in the industry for preventing failures and accidents. Maintenance logs shall be timely provided to the Township upon request.
- (h.) **Historic Districts.** No Small Wireless Facility may be located within seventy-five (75) 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 under the Pennsylvania Historic District Act, located within a Historic District, or is included in the official historic structures list maintained by the Township (see Official Township Map).

(5.) **Discontinuance.**

(a.) **Process.** If use of a Small Wireless Facility and/or its dedicated Accessory Equipment is to be discontinued, the Permittee shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A Small Wireless Facility and/or dedicated Accessory Equipment not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned Small Wireless Facilities, or portions of Small Wireless Facilities, shall be removed as follows:

- i. All abandoned or unused Small Wireless Facilities and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the Small Wireless Facility has been deemed abandoned by the Township unless a time extension is approved by the Township.
- ii. If the Small Wireless Facility or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Township, the Small Wireless Facility and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Small Wireless Facility regardless of the owner's or operator's intent to operate the Small Wireless Facility in the future.
- iii. The Township reserves the right to pursue all available remedies under the law to ensure removal of the Small Wireless Facility and restoration of the site at the expense of the Permittee. Any delay by the Township in taking action shall not invalidate the Township's right to take action.

With respect to a Small Wireless Facility Collocated on a Municipal Pole, the Township may abandon a Municipal Pole upon thirty (30) days' notice to the Permittee. Permittee must remove or transfer all Facilities from abandoned Municipal Poles within the same thirty (30) days unless granted additional time by the Township. The Township will not unreasonably withhold consent of such request for additional time. The Permittee shall post a decommissioning bond in the amount of one hundred percent (100%) of the total cost of decommissioning with the Township. If the Township has no attachment(s) on said Municipal Poles and the Permittee has not removed or transferred its Facilities therefrom, the Township may, in its sole discretion: (1) revoke the Permit for that Municipal Pole; or (2) remove the Small Wireless Facilities at the Permit holder's expense, with no liability falling on the Township except in the case of gross negligence or willful misconduct.

- (b.) **Required Discontinuance.** The Township may require the discontinuance of a Small Wireless Facility if:
- i. The Township determines that the space is needed for public purpose; or
 - ii. The Township desires to decommission the Utility Pole; or
 - iii. The Township designates the area of the subject Utility Pole or Wireless Support Structure as an underground district.

Within ninety (90) days of receipt of a notice of discontinuance from the Township, the Permittee shall remove the Small Wireless Facility and any Accessory Equipment, including the Utility Pole and any Wireless Support Structures if the Permittee's Small Wireless Facilities and Accessory Equipment are the only Wireless Facilities on the Utility Pole. The Township shall not be liable to the Permittee or Applicant as a result of requiring the discontinuance of a Small Wireless Facility in the event that an Applicant or Permittee is prevented from placing and/or maintaining its Small Wireless Facility pursuant to this section.

(6.) **Indemnification.**

Each person that owns or operates a Small Wireless Facility 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 Small Wireless Facility. Each person that owns or operates a Small Wireless Facility, or holds a Permit issued pursuant to this Section, 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 permitting, construction, installation, operation, maintenance, and/or removal of a Small Wireless Facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, verdicts, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

Further, a Permittee shall repair all damage to the Right-of-Way or any other land so disturbed, directly caused by the activities of the Permittee or the Permittee's contractors and return the Right-of-Way in as good of condition as it existed prior to any work being done in the Right-of-Way by the Permittee. If the Permittee fails to make the repairs required by the Township within 30 days after written notice, the Township may perform those repairs and charge the Permittee the reasonable, documented cost of the repairs plus a penalty of \$500. In the event an Applicant or Permittee has failed to pay any costs invoiced by the Township

for repair work or penalties charged pursuant to this section, the Township shall not process any further Applications unless or until the Applicant or Permittee has paid the amount assessed for the repair costs and the assessed penalty. Any unpaid invoice shall be subject to interest accruing on the unpaid amount at eighteen percent (18%) per annum beginning on the 31st day from the date of invoice until paid.

(7.) **Standard Permit Conditions.**

All Wireless Permits under this Section are issued subject to the following minimum conditions:

- (a.) The Permittee shall at all times maintain compliance with this Section and all Applicable Codes.
- (b.) The Permittee shall at all times maintain with the Township accurate contact information for the Permittee and all Wireless Service Providers making use of the Small Wireless Facility, which shall include, at minimum, a name, phone number, mailing address, and email address for at least one natural person.
- (c.) The Township shall have the right to support, repair, disable, or remove any components of a Small Wireless Facility if the Small Wireless Facility threatens imminent harm to persons or property.
- (d.) The Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent persons, properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the Small Wireless Facility.
- (e.) The Permittee shall maintain all Small Wireless Facilities and any associated structures in a good condition and in a neat and clean manner in accordance with all approved Application documents and conditions of approval.
- (f.) The Permittee shall retain full and complete copies of all Permits, Applications, and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the Permit or regulatory approval. In the event the Township cannot locate any such full and complete Permits, Applications, or other regulatory approvals in its own official records, and the Permittee fails to retain full and complete records in the Permittee's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be presumed resolved against the Permittee.
- (g.) Every Small Wireless Facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and

failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

- (h.) **Make-Ready Work.** For any Municipal Pole Collocation Application, the Township shall provide a good faith estimate for any make-ready work, including any make ready engineering costs, necessary to enable a Municipal Pole to support the requested Collocation by a Wireless Provider, including pole replacement, if necessary, within 60 days after receipt of a complete Application. The Township shall also provide the Applicant with a schedule for completing any make-ready work. Make-ready work, including pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the Applicant. Any unpaid invoice sent by the Township to an Applicant for fees for make-ready work shall be subject to interest accruing on the unpaid amount at eighteen percent (18%) per annum beginning on the 31st day from the date of invoice until paid.
- (i.) **Future Use.** The Township may reserve space on an existing Municipal Pole for future public uses in a documented and approved plan as adopted at the time an Application is filed. A reservation of space shall not preclude Collocation, the replacement of an existing Utility Pole or the installation of a new Utility Pole. If the replacement of a Municipal Pole is necessary to accommodate Collocation and the reserved future use, the Wireless Provider shall pay for the replacement Municipal Pole and the Municipal Pole shall accommodate the future use.
- (j.) An Applicant or the Applicant's designee shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair, or maintenance work on a Small Wireless Facility deployed under this Section meets and attests to all of the following requirements:
 - (i.) Maintain all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or the applicable local government entity that is necessary to do business or perform applicable work.
 - (ii.) Maintain compliance with the act of June 2, 1915 (P.L. 736, No. 338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law, and bonding and liability insurance requirements as specified in the contract for the project.
 - (iii.) Has not defaulted on a project or been suspended on a project by the Federal Government, the Commonwealth, or a local government entity within the previous three years.

- (iv.) Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.
 - (v.) Has completed the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the Small Wireless Facility.
 - (vi.) Prior to the commencement of work, the contractor and/or subcontractor shall provide the Township with a certificate of insurance, in a form satisfactory to the Township Solicitor, 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 Small Wireless Facility and naming the Township as an additional insured on each insurance policy. All Permits issued for location of a Small Wireless Facility pursuant to this Section shall be deemed to be revoked in the event said insurance policy is cancelled, expires, or ceases to exist.
 - (vii.)** The contractor and/or subcontractor 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 contractor and/or subcontractor, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Small Wireless Facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, verdicts, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (k.) A Permit issued pursuant to this Section shall not be assigned or otherwise transferred without the prior written approval of the Township.
- (l.) Approval of an Application shall authorize the Applicant to, subject to the Permit requirements and the Applicant's right to terminate at any time, operate and maintain Small Wireless Facilities and any Accessory Equipment on a Utility Pole covered by the Permit for a period of not less than five years, which shall be renewed for two additional five-year periods if the Applicant is in compliance with the criteria set forth in Act 50 or Applicable Codes consistent with Act 50 and the Applicant has obtained all necessary consent from the Utility Pole owner.

(8.) Revocation of Permit

The Township may revoke a Wireless Permit for failure to comply with the conditions of the Permit or Applicable Codes after providing adequate notice to the Permittee and allowing the Permittee an opportunity to cure any noncompliance. Within 60 days of suspension or revocation of a Permit due to noncompliance with Act 50 or other Applicable Codes, the Applicant shall remove the Small Wireless Facility and any Accessory Equipment, including the Utility Pole and any Wireless Support Structures if the Applicant's Small Wireless Facilities and Accessory Equipment are the only Wireless Facilities on the Utility Pole. Within 90 days of the end of a Permit term or an extension of the Permit term, the Applicant shall remove the Small Wireless Facility and any Accessory Equipment, including the Utility Pole and any Wireless Support Structures if the Applicant's Small Wireless Facilities and Accessory Equipment are the only Wireless Facilities on the Utility Pole.

(9.) Restoration

If a Permittee removes or relocates a Small Wireless Facility from the Right-of-Way under this Section, the Permittee must restore the Right-of-Way to its prior condition in accordance with Township specifications. If the Permittee fails to make the restorations required by this Section, the Township at its option may do such work. In that event, the Permittee shall pay to the Township, within 30 days of billing thereof, all costs and expenses incurred by the Township in restoring the Right-of-Way. Any unpaid invoice shall be subject to interest accruing on the unpaid amount at eighteen percent (18%) per annum beginning on the 31st day from the date of invoice until paid.

1640. Kennels

Kennels, where permitted, are subject to the following criteria:

- (1.) Minimum Lot Area – Each site shall contain at least five (5) acres;
- (2.) 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 one hundred feet (100') from all property lines;
- (3.) All outdoor recreation areas shall be enclosed to prevent the escape of animals. All such enclosures shall be set back a minimum of one hundred feet (100') from all property lines;
- (4.) The applicant shall furnish evidence of effective means of animal and veterinary waste collection and disposal which shall be continuously implemented;

- (5.) The applicant must demonstrate compliance with all State requirements; and
- (6) The subject property shall be located no closer than five hundred (500) feet from the (RL, RM, RH, V and/or SC) Zones and/or property containing a residence.

1641. Keeping and Housing of Livestock, Foul, & other Animals

1. On tracts of less than ten (10) acres in size there may be no more than one (1) large animal (animal weighing in excess of 350 pounds fully grown), where housing of such animals is permitted, for each one and one-fourth (1-1/4) acre of tract size regardless of whether such animals are kept as pets or for domestic use or consumption or for profit with the intent of selling the same or the progeny of same.
2. Keeping and housing of livestock and foul shall only be permitted in the Agricultural and Conservation District and Woodland Conservation District. The keeping of such animals shall be prohibited in all other districts.

1642. Truck or Motor Freight Terminals

Within the I-3 District, truck stops or motor freight terminals are permitted by conditional use subject to the following criteria:

- (1.) The subject property shall have a minimum of three hundred feet (300') of road frontage along an arterial or urban collector road;
- (2.) The subject property shall be located no closer than five hundred feet (500') from the (RL, RM and/or RH) Zones and/or property containing a school, day-care facility, park, playground, library, hospital, or nursing, rest or retirement home;
- (3.) All structures (including, but not limited to, air compressors, fuel pump islands, kiosks) shall be set back at least fifty feet (50') from any street right-of-way line;
- (4.) Access driveways shall be a minimum of twenty-eight feet (28'), and a maximum of thirty-five feet (35') wide. All access drives onto the same road shall be set back at least one hundred fifty feet (150') from one another, as measured from closest points of cartway edges;
- (5.) Off-street parking shall be provided at a rate equal to that required for each of the respective uses comprising the truck stop. The applicant shall also present credible evidence that the number of "oversized" off

street parking spaces provided for trucks will be adequate to accommodate the expected demand generated by truck patrons. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle back-ups onto adjoining roads during peak arrival periods;

- (6.) Trash receptacles shall be provided amid off-street parking areas that shall be routinely emptied. Furthermore, a working plan for the regular clean-up of litter shall be furnished and continuously implemented by the applicant;
- (7.) All uses involving drive-through restaurant and/or drive-through vehicle service and/or washing shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;
- (8.) All vehicle service and/or repair activities shall be conducted within a completely enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations, shall be permitted;
- (9.) The outdoor storage of unlicensed vehicles is prohibited;
- (10.) All vehicles and machinery shall be repaired and removed from the premises promptly;
- (11.) The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof, shall be removed within two (2) weeks after arrival;
- (12.) Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines;
- (13.) A Traffic Impact Report shall be prepared by a professional traffic engineer, according to Section 713 of the Subdivision and Land Development Ordinance; and,
- (14.) The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable State and Federal regulations.

1643. Mini-Storage

Mini-storage facilities, where permitted, shall be subject to the following criteria:

- (1.) Off-street parking spaces shall be provided at the rate of one (1) space per each twenty-five (25) units, plus one (1) per two hundred fifty (250) square feet of office space, plus two (2) per any resident manager;
- (2.) Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty-six feet (26') wide when cubicles open onto one side of the lane only, and at least thirty feet (30') wide when cubicles open onto both sides of the lane;
- (3.) Required parking spaces may not be rented as, or used for, vehicular storage. However, additional external storage area may be provided for the storage of privately-owned travel trailers and/or boats, so long as such external storage area is screened from adjoining residentially-zoned land and adjoining roads, and is located behind the minimum front yard setback line. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperative vehicles;
- (4.) All storage shall be kept within an enclosed building except that the storage of flammable, highly combustible, explosive or hazardous chemicals shall be prohibited. Any fuel tanks and/or machinery or other apparatuses relying upon such fuels shall be stored only in an external storage area as described above;
- (5.) An on-site manager shall be required to be on the site on a full-time basis and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval and all applicable ordinances. Any dwelling for a resident manager shall comply with all of those requirements listed within the (R-H) Zone, and shall be entitled to all residential accessory uses provided in this Ordinance;
- (6.) Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture is prohibited.

- (7.) No door openings for any mini-storage building unit shall be constructed facing any residentially-zoned property;
- (8.) Mini-storage buildings shall be used solely for the dead storage of property. The following lists examples of uses expressly prohibited upon the site:
 - (a.) Auctions, commercial wholesale or retail sales, or garage sales; and,
 - (b.) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.

1644. Taverns and Nightclubs

- (1.) No part of the subject property shall be located within five hundred (500) feet of any residential zoning district.
- (2.) The Applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light, and litter.
- (3.) The Applicant shall furnish expert evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building.

1645. Surface Mining and The Excavating, Extraction or Any Natural Resource from Land or Ground within the AC Zone, quarries and other extractive-related uses are permitted by conditional use, subject to the following criteria:

- (1.) Minimum Lot Area – One hundred (100) acres;
- (2.) Fencing – A fence measuring at least eight feet (8') in height may enclose the area of actual quarrying. If a chain link fence is used, the Board of Supervisors shall decide if said fence shall include a vegetative screen that is provided along the outside of the fence, away from the quarry;

- (3.) Setbacks – The following table identifies minimum setbacks imposed upon specific features of the quarry and other extractive-related uses from adjoining and/or nearby uses.

Quarry-Related Feature	Existing Residence	Existing Nonresidential Building	Village Residential Zone or	Adjoining Road	Public/ Nonprofit Park	Cemetery or Stream Bank	Adjoining Property
Stock piles or spoil piles	300 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.
Mineral processing equipment (e.g., crushers, sorters, conveyors, dryers, etc.)	300 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.
Quarry pit	300 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.
On-site access roads (these shall not access any public roads) and off-street parking, loading and vehicle storage and weighing facilities.	300 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.
Other operational equipment and/or improvements	300 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.
Offices	100 ft.	300 ft.	500 ft.	100 ft.	300 ft.	100 ft.	100 ft.

- (4.) Access – Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties. Access drives used by trucks shall only intersect with collector or arterial roads.

- (a.) All access drives shall be designed and located so as to comply with Section 310 of this Ordinance;
- (b.) All access drives serving the site shall have a paved minimum thirty-five foot (35') wide cartway for a distance of at least two hundred feet (200') from the intersecting street right-of-way line. The owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling to and from the site; and,
- (c.) In general, access drives shall intersect public streets at ninety degrees (90°) as site conditions permit, however in no case shall access drives intersect public streets at less than seventy degrees (70°). Said angle shall be measured from the centerline of the street to the centerline of the access drive;

- (5.) Traffic Impact – A traffic Impact Report shall be prepared by a professional traffic engineer, according to Section 713 of the Subdivision and Land Development Ordinance;
- (6.) Hours of Operation – All extraction operations within five hundred feet (500') of any residence shall be conducted between the hours of 6am and 7pm.
- (7.) Screening – Where the proposed use adjoins a residential zone, an existing residence and/or a public road, screening shall be provided. Such screening shall be comprised of an earthen berm at least ten feet (10') in height. Such berm shall be located on the quarry site and placed so as to maximize the berm's ability to absorb and/or block views of, and the noise, dust, smoke, etc. generated by, the proposed use. The berm shall be completely covered and maintained in an approved vegetative ground cover. In addition, a landscape screen shall consist of evergreen shrubs and trees shall be planted on top of the berm within a strip of land with a minimum width of ten (10) feet. The screen shall consist of evergreen trees of not less than five (5) feet in height at the time of planting that shall be planted at intervals of not more than ten (10) feet. A top soil cover of at least two (2) feet shall be placed at the top of the berm to help ensure growth and maintenance of the plantings. Alternative screening options may be considered at the sole discretion of the Board of Supervisors.

1646. ECHO Housing

ECHO housing, where permitted, is subject to the following criteria:

- (1.) The elder cottage shall not exceed nine hundred (900) square feet of floor area;
- (2.) The total building coverage for the principal dwelling, any existing accessory structures and the elder cottage or apartment addition together shall not exceed the maximum lot coverage requirement for the respective zone;
- (3.) The elder cottage or apartment addition shall only be occupied by at least one (1) person who is at least fifty years old, or is handicapped or disabled, and is related to the occupants of the principal dwelling by blood, marriage or adoption;
- (4.) The elder cottage or apartment addition shall be occupied by a maximum of two (2) people;
- (5.) Utilities

- (a.) For sewage disposal and water supply and all other utilities all connections shall meet the applicable utility company standards; and,
 - (b.) If on-site sewer or water systems are to be used, the applicant shall submit evidence showing that the total number of occupants in both the principal dwelling and the elder cottage or apartment addition will not exceed the maximum capacities for which the systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the sewage enforcement officer;
- (6.) A minimum of one (1) all-weather, off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the elder cottage or apartment addition, in addition to that required for the principal dwelling;
 - (7.) The elder cottage or apartment addition shall adhere to setback requirements for principal uses;
 - (8.) The elder cottage or apartment addition shall be removed from the property or reestablished as a use permitted in the district within twelve (12) months after it is no longer occupied by a person who qualifies for the use; and,
 - (9.) Upon the proper installation of the elder cottage or apartment addition, the Zoning Officer shall issue a temporary use and occupancy permit. Such permit shall be reviewed every twelve- (12) months.

1647. Wellhead Protection Reporting Requirements

The record owner of a tract of land located within any Wellhead Protection Area, which contains a regulated land use or activity (see Section 1405 (7)), whether existing or proposed, shall submit copies of the following applicable reports to the Zoning Officer within thirty (30) days of notification by the Township:

- (1.) Copies of all Federal, State and County operational approvals, certificates, permits and applications, ongoing environmental reports and monitoring results, relating to environmental, pollution control, hazardous substance, and drinking water laws and regulations pertaining to such lot or tract of land, as and when required to be submitted to federal, state and county governmental authorities. These shall include an Environmental Hazard Survey Form, Hazardous Substances Survey Form, a PIP, PPC, SPCC, SPR, SARA Title III - Tier I and II Reports, as applicable.

- (2.) In the event that any contaminants and/or substances regulated under federal, state or state environmental, pollution control, hazardous substance, and drinking water laws and regulations are released in reportable quantities on or from any lot or tract of land within any Wellhead Protection Area, copies of any and all notices, reports and documents which such owner filed with any Federal, State and/or County governmental authorities which relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities;
- (3.) Copies of all notices, orders, rules, decisions, recommendations, enforcement actions and similar documentation, as and when received by such record owner of any such lot or tract of land from any federal, state or county governmental authority in connection with the enforcement of environmental, pollution control, hazardous substance, and drinking water laws and regulations; and,
- (4.) Failure to comply with the requirements of this Section so as to permit the Township or any governmental agency to respond in a timely manner to prevent, minimize or contain damage to the groundwater and/or damage to the environment in the Wellhead Protection District shall be subject to the enforcement provisions of Section 9 of the Wellhead Protection Ordinance, Ordinance No. 12 of 1998.
- (5.) The following tabulates various reports required for uses involving hazardous substances:

Table 1646

HAZARDOUS SUBSTANCES FORMS, PLANS AND REPORTS		
Form, Plan or Report	Authorizing Agency	Purposes
Environmental Hazard Survey Form	PA Dept. of Labor & Industry PA Worker & Community Right-to-Know Act	Describes the hazardous substances emitted, discharged or disposed of from the workplace.
Hazardous Substance Survey Form	PA Dept. of Labor & Industry PA Worker & Community Right-to-Know Act	Provides a listing of all hazardous substances found in the workplace.
Pollution Incident Prevention (PIP) Plan	PA DEP Ch. 101	Emergency response plan for facilities which handle materials with potential for accidental pollution of the waters of the Commonwealth.
Preparedness, Prevention & Contingency (PPC) Plan	EPA, Federal Resource Conservation & Recovery Act, as amended PA DEP Ch. 260-270	Emergency response plan for facilities which generate, store, treat, or dispose of hazardous wastes.
SARA Title III Off-Site Plan	EPA Federal Superfund Amendments & Reauthorization Act	Identifies the transportation routes of extremely hazardous substances, a description of the workplace and a risk analysis of the operation to the surrounding community.
SARA Title III Tier I & Tier II Reports	EPA Federal Superfund Amendments & Reauthorization Act	Tier I lists the amounts and locations within the workplace of extremely hazardous substances by type of hazard (e.g., fire, explosion, acute health hazard). Tier II provides a listing of each specific extremely hazardous substances in the workplace and each specific hazardous substance exceeding 10,000 pounds on-site at any one time.
Spill Prevention Control & Countermeasure (SPCC) Plan	EPA Federal Clean Water Act 40 CFR 112	Emergency response plan for facilities which handle hazardous substances or petroleum products as defined in the Clean Water Act.
Spill Prevention Response (SPR) Plan	PA DEP PA Storage Tank & Spill Prevention Act	Emergency response plan for facilities with an above-ground storage tank exceeding a volume of 21,000 gallons.

1648. Conversion Apartments

Where permitted, Conversion Apartments shall be subject to the following requirements:

- (1.) There shall be a minimum of ten thousand (10,000) square feet of lot area for the first dwelling unit and two thousand (2,000) square feet of lot area for each additional dwelling unit.
- (2.) There shall be two (2) off-street parking space to serve each dwelling unit.
- (3.) Conversion Apartments shall comply with the Uniform Construction Code.

1649. Wind Energy Facilities

- (1.) Applicability
 - (a.) Personal Stand-alone Wind Turbines constructed primarily for use on the property upon which the Wind Turbine is located are permitted in all zoning districts as a conditional use, although secondary to the principal use of the property, and shall conform to the following requirements:

- (1.) Any structure supporting the Wind Turbine, including guideposts and cables, and above ground fuel storage tanks shall be independent of any occupied structure and located a minimum distance of the Turbine Height plus ten (10) feet from any existing aerial utility line or occupied dwelling, and shall not be more than seventy-five (75) feet in height.
 - (2.) The minimum distance between the Wind Turbine and any property line shall not be less than twice the Turbine Height.
 - (3.) The minimum distance between the ground and the lowest point of the Wind Rotor blade shall be twenty (20) feet.
 - (4.) All electrical or utility lines shall be buried underground.
 - (5.) One Wind Turbine shall be permitted per lot, and all energy produced from such turbine shall be used on the lot.
 - (6.) The Wind Turbine shall be enclosed by a six (6) foot fence with locking gate or the base of the Wind Turbine shall not be climbable for a distance of twelve (12) feet.
 - (7.) The use of Personal Stand Alone Wind Turbines shall be limited to properties containing five (5) acres or more.
 - (8.) Audible sound from a Personal Stand Alone shall not exceed fifty-five (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for provision described in AWEA Standard 2.1 – 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume 1. First Tier.*
 - (9.) The wind turbine as well as any structure used to support the wind turbine shall comply with the Uniform Construction Code as may be amended from time to time.
- (2.) Wind Energy Facilities constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modification to an existing Wind Energy Facility that materially alters the size, type and number of Wind

Turbines or other equipment shall require a permit under this ordinance and meet the requirements of the UCC.

- (3.) A Wind Energy Facility shall be permitted in the I-2 and I-3 Zoning Districts as a conditional use subject to the following criteria:
- (a.) Any physical modification to an existing and permitted Wind Energy Facility that materially alters the size, type and number of Wind turbines or other equipment shall require a conditional use permit modification under this Ordinance. Like kind replacements shall not require a permit modification.
 - (b.) The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificate of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations.
 - (c.) The Wind Energy Facility shall comply with the Pennsylvania Uniform Construction Code, 34 PA Code §403.1 – 403.142 as may be amended from time to time..
 - (d.) All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Staff regulation shall not be considered a sufficient braking system for over speed protection.
 - (e.) All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
 - (f.) Wind Turbines shall be a non-obtrusive color such as white, off-white or gray.
 - (g.) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
 - (h.) Wind Turbines shall not display advertising, except for identification of the turbine manufacturer, Facility Owner or Operator.
 - (i.) On-site transmission and power lines between Wind Turbines shall be placed underground.

- (j.) The design of buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility into the natural setting and existing environment.
- (k.) A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (l.) 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.
- (m.) All access doors to Wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- (n.) The minimum distance between the ground and any part of the Wind Rotor blade shall be thirty (30) feet.
- (o.) To limit climbing access, a six (6) foot high fence with a locking gate shall be placed around the Wind Energy Facility, or the Wind Turbines' climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the Wind Turbines' climbing apparatus shall be fully contained and locked within the tower structure.
- (p.) Wind Turbines shall be set back from the nearest occupied building or non-occupied building on the participating landowner's property a distance not less than the greatest normal boundary setback requirements for the zoning district or 1.1 times the Turbine Height, whichever is greater. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point on the foundation of the occupied building or non-occupied building.
- (q.) Wind Turbines shall be setback from the nearest occupied building or non-occupied building located on a non-participating landowner's property a distance of not less than two (2) times the Turbine Height, as measured from the center of the Wind Turbine base to the nearest point on the foundation of the occupied or non-occupied building.
- (r.) All Wind Turbines shall be setback from the nearest property line a distance of not less than the normal setback requirements for that zoning classification of 1.1 times the Turbine Height, whichever is

greater. The setback distance shall be measured to the center of the Wind Turbine base.

- (s.) All Wind Turbines shall be setback from the nearest public road a distance of not less than 1.1 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.
- (t.) Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for prevision described in AWEA Standard 2.1 – 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind turbine Generation Systems Volume I. First Tier*.
- (u.) The Facility Owner and Operator shall not be permitted to allow any shadow flicker to any occupied building on a non-participating landowner's property.

(4.) Use of Public Roads

- (a.) The applicant shall identify all state and local public roads to be used within the Township to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
- (b.) The Township Engineer or a qualified third party engineer hired by the Township and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
- (c.) The Township may bond the road in compliance with state regulations.
- (d.) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
- (e.) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

(5.) Local Emergency Services

- (a.) The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).
 - (b.) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Facility (appropriate fees may be required as determined by the Township).
- (6.) Signal Interference
 - (a.) The applicant shall avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Wind Energy Facility.
- (7.) Liability Insurance
 - (a.) There shall be maintained 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. Certificates shall be made available to the Township upon request.
- (8.) Decommissioning
 - (a.) The Facility Owner and Operator shall, at its expense, complete decommissioning of the Wind Energy Facility, or individual Wind Turbines, within twelve (12) months after the end of the useful life of the Facility or individual Wind Turbines. The Wind Energy Facility or individual Wind Turbines will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
 - (b.) Decommissioning shall include removal of Wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and ANY other associated facilities.
 - (c.) 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.
 - (d.) An independent and certified Professional Engineer shall be retained to estimate the total cost of decommission ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates

shall be submitted to the Township after the first year of operation and every fifth year thereafter.

- (e.) The Facility Owner or Operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred (100) percent of Decommissioning Costs. 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 such business within the Commonwealth and is approved by the Township.
 - (f.) Decommissioning Funds may be in the 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.
 - (g.) If the Facility Owner or Operator fails to complete decommissioning within the period prescribed above, then the landowner shall have six (6) months to complete decommissioning.
 - (h.) If neither the Facility Owner or Operator nor the landowner complete decommissioning within the periods prescribed by 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.
 - (i.) 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 by the Township in order to implement the decommissioning plan.
- (9.) Public Inquiries and Complaints
- (a.) The Facility Owner and Operator shall maintain a phone number and identify responsible person for the public to contact with inquiries and complaints throughout the life of the project.

- (b.) The Facility Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- (c.) The Facility Owner and/or Operator shall keep a record of all such inquiries and complaints and shall submit a report thereof to the Township not less than quarterly.

(10.) Remedies

- (a.) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Ordinance, or any permit issued under this Ordinance, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Ordinance or any permit issued under this Ordinance.
- (b.) If the Township determines that a violation of this Ordinance or the permit has occurred, the Township shall provide written notice to any person, firm, or corporation alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Township and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.
- (c.) If after thirty (30) days from the date of the notice of violation, the Township determines in its discretion that the parties have not resolved the alleged violation, the Township may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Ordinance or permit.

(11.) Application for Wind Energy Facilities

- (a.) Among other things, the application shall contain the following:
 - (i.) A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Wind Energy Facility; the approximate number, representative types and height or range of heights of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
 - (ii.) An affidavit or similar evidence of agreement between the property owner and the Facility Owner or Operator

demonstrating that the Facility Owner or Operator has the permission of the property owner to apply for necessary permits for construction and the operation of the Wind Energy Facility and setting forth the applicant's and property owner's name, address and phone number.

- (iii.) Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located.
- (iv.) A site plan showing the planned location of each Wind Turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Energy Facility 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.
- (v.) Documents related to decommissioning.
- (vi.) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Township to ensure compliance with this Ordinance.
- (vii.) Throughout the permit process, the applicant shall promptly notify the Township of any changes to the information contained in the conditional use permit application. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

1650. Recreational Vehicles and Trailers. Recreational vehicles and recreational trailers shall not be permitted to be used for permanent or seasonal occupation unless otherwise provided for by this ordinance.

1651. Accessory Distilleries, Wineries, and Breweries

- (1.) An applicant seeking conditional use approval for an accessory distillery, accessory brewery or accessory winery shall demonstrate compliance with the following criteria. For purposes of these criteria, the term "accessory use" shall mean the accessory distillery, accessory winery or accessory brewery as applicable.
 - (a.) The principal use of the property shall be and remain an agricultural use.

- (b.) The accessory use shall promote and preserve farms, agriculture, and farming in the Township.
- (c.) The accessory use shall be located on the same property as the agricultural use.
- (d.) A minimum of fifty (50) percent of the net lot area of the property shall be devoted to and used in active agricultural production or restricted by a publicly recorded easement satisfactory to the Township which preserves at least fifty (50) percent of the net lot area of the property as open space or for natural resource protection.
- (e.) In the case of an accessory brewery or accessory distillery, within two (2) years of the date of commencing operations of the accessory use (i.e., the fermentation of grains), a minimum of twenty (20) percent of the agricultural commodity used in the production of the malt beverages or distilled liquor shall be grown on the property where the accessory use is located or on other property owned or leased by the individual or entity holding the license for the accessory use.
- (f.) The accessory use shall be licensed and permitted as required by this Zoning Ordinance, applicable law and regulations. The licenses and permits shall remain in effect during the operation of the accessory use. Copies of the licenses and permits shall be provided to the Township prior to the issuance of a use and occupancy permit for the accessory use.
- (g.) The accessory use shall comply with all Township ordinances and regulations and with all applicable provisions of any statute, ordinance or regulation of any governmental entity having jurisdiction over the accessory use.
- (h.) Each accessory use shall be located on property with a minimum lot area of ten (10) acres.
- (i.) The maximum gross floor area used for tasting samples and sales shall be four thousand (4,000) square feet.

- (j.) The maximum gross floor area used for production and processing shall be ten thousand (10,000) square feet.
- (k.) The maximum gross floor area used for storage and warehousing shall be ten thousand (10,000) square feet.
- (l.) Consumption of alcoholic beverages on the property shall comply with all State and Federal requirements.
- (m.) The accessory use may be open to the public for sales, tasting samples and tours only from 11:00 a.m. to 7:00 p.m. prevailing time on Mondays through Saturdays and 11:00 a.m. to 6:00 p.m. prevailing time on Sundays. Extended sale hours authorized by the PLCB must be approved in writing by the Board of Supervisors.
- (n.) Notwithstanding any specific criteria set forth in this section, the accessory use shall comply with all the regulations of the Zoning Ordinance.
- (o.) All warehousing, storage and production activities shall be located inside buildings.
- (p.) The serving of food aside from limited snack foods that requires no preparation shall be prohibited.
- (q.) The accessory use shall provide adequate parking for all permitted uses of the property in accordance with Article XVIII.
- (r.) There shall be safe access to the property and sufficient areas for deliveries and circulation of vehicles which will access the property.
- (s.) The accessory use shall comply with all applicable potable water, solid waste and waste water requirements.
- (t.) The owner of the property shall be responsible for any negative effect on potable water, well yield or water quality on nearby properties which can be proven to be a result of water drawn from wells on the property used for the accessory use.

- (u.) Any request to the PLCB to sell merchandise not permitted by this Zoning Ordinance shall require the written approval of the Board of Supervisors.
- (v.) Except for the licenses required and permitted by this Zoning Ordinance, the property shall not be the site for any other PLCB license or permit, e.g., restaurant liquor license, malt and brewed beverages retail license or brewpub license.
- (w.) In the event of a conflict between (a) the limitations in the definition of the accessory use in Section 300 and this section and (b) PLCB licensing requirements and limitations, the more restrictive criteria or requirement shall apply.
- (x.) All alcohol must be sold, served and/or consumed inside a building. Notwithstanding the foregoing, the applicant seeking conditional use approval of an accessory use may request approval of a limited outdoor area for consumption of alcohol on the property.
- (y.) The accessory use shall be limited to the buildings, structures and areas approved by the Board of Supervisors by conditional use. The applicant's PLCB license application shall request that the premises to be licensed by the PLCB be limited to the buildings, structures and areas approved as aforesaid.

1652. Historic Building Demolition

- (1.) Purposes. In addition to serving the overall purposes of this ordinance, this section is intended to:
 - (a.) Promote the retention of community character through preservation of the local heritage by recognition and protection of historic and architectural resources.
 - (b.) Establish a clear process to review and approve demolition of designated historic buildings.
 - (c.) Encourage continued use, appropriate rehabilitation, and adaptive reuse of historic buildings.

- (d.) Implement Sections 603(b), 603(g), 604(1) and 605(2) of the Pennsylvania Municipalities Planning Code which addresses protecting and facilitating the preservation of historic values through zoning and using zoning to regulate uses and structures at or near places having unique historic, architectural or patriotic interest or value.
- (e.) Strengthen the local economy by promoting heritage tourism, improving property values, and increasing investment in older buildings.
- (f.) Carry out recommendations of the County and Township Comprehensive Plans, including recommendations to preserve historic buildings and community character.

(2.) Applicability.

- (a.) This section shall apply to any principal building that is designated as a historic building on the Official Map, the accompanying historic buildings list, and the Boiling Springs Historic Resources Inventory prepared by NTM Engineering in 2022. The provisions of this section shall not apply to barns or other buildings that were built for agricultural storage or livestock.
 - (i.) This section shall not apply to buildings or additions to buildings that the applicant proves were constructed after January 1, 1945.
- (b.) For a building regulated by this section, all of the provisions of the applicable underlying zoning district shall also continue to apply, in addition to the provisions of this section. In the event there is a direct conflict between the provisions of this section and the underlying zoning district, the provision that is most restrictive upon development, demolition, and uses shall apply.

(3.) General Provisions

- (a.) The Official Map and historic buildings list has been officially adopted and are in effect as part of this section.
- (b.) Any partial or complete demolition of a building regulated by this section that is visible from a public street shall only occur in compliance with this section.

- (c.) The map and historic buildings list may be revised as an amendment to the Official Map.
- (d.) Definitions. The following terms shall have the following meanings for the purposes of this section.
 - (i.) Demolition - The dismantling, tearing down, removal, or razing of the exterior of a building, in whole or in part. This term shall not include changes to the interior of a building, provided such changes do not alter the structural integrity of the building.
 - (ii.) Demolition by Neglect – The absence of routine maintenance and repair which leads to structural weakness, decay and deterioration in a building to a point that causes a need for major repair or may cause a need for demolition.
 - (iii.) Maintenance and Repair – Work that does not alter the appearance or harm the stability of exterior features of a building.
 - (iv.) Streetscape – The overall appearance of a block along a public street, including yards visible from a public street, the relationship of building setbacks, the consistency of architectural styles or features, the spacing and shapes of windows and doors and rooflines and similar features that give the block its distinctive visual character.

(4.) Approval of Demolition of Historic Buildings.

- (a.) A building regulated by this section shall not be demolished, in whole or in part, unless the applicant proves by credible evidence to the satisfaction of the Board of Supervisors as a conditional use that one or more of the following conditions exists:
 - (i.) The existing building cannot feasibly and reasonably be reused, and that such situation is not the result of intentional neglect or demolition by neglect by the owner; or

- (ii.) The denial of the demolition would result in unreasonable economic hardship to the owner, and the hardship was not self-created; and/or
 - (iii.) The demolition is necessary to allow a project to occur that will have substantial, special, and unusual public benefit that would greatly outweigh the loss of the Historic Building, and the project needs to occur at this location. For example, a demolition may be needed for a necessary expansion of an existing public building or to allow a street improvement that is necessary to alleviate a public safety hazard.
- (b.) For approval of a demolition, the standards of this section shall apply in place of any general conditional use standards of this ordinance. In reviewing the application, the Planning Commission and the Board of Supervisors shall consider the following:
 - (i.) The effect of the demolition on the historical significance, streetscape, and architectural integrity of neighboring historic buildings and on the historical character of the surrounding neighborhood.
 - (ii.) The feasibility of other alternatives to demolition.
- (c.) An application for partial or complete demolition of a building regulated by this section shall not be approved unless all of the requirements of this section have been met. A partial demolition shall include, but not be limited to: removal of an attached porch roof, removal of porch columns and removal of architectural features. See definition of "Demolition" above.
- (d.) A complete application for the demolition shall be submitted by the applicant in writing. This application shall include the following:
 - (i.) The name, address and daytime telephone number of the owner of record and the applicant for the demolition.
 - (ii.) Recent exterior photographs of the building proposed for demolition. If the applicant is alleging that the building cannot be reused or rehabilitated, then

interior photos and floor plans shall be provided as needed to support the applicant's claim.

- (iii.) A site plan drawn to scale showing existing buildings and the proposed demolition.
 - (iv.) A written statement of the reasons for the demolition.
 - (v.) The proposed use of the site, and a proposed timeline for development of that proposed use.
 - (vi.) The proposed disposition of materials. The applicant shall show that debris will be disposed in a legal manner. Salvage of building materials is strongly encouraged to preserve historic features and reduce waste, particularly including stone and beams from old barns.
- (e.) Procedures – The demolition application shall be submitted to the municipal Planning Commission for review and to Board of Supervisors for approval as a conditional use. The timing requirements for a conditional use shall apply. The applicant shall be informed of meeting dates where the application is intended to be discussed and encouraged to be present to discuss the proposed demolition.
- (f.) Evidence – The applicant shall provide sufficient credible evidence to justify any claims that a building cannot feasibly be repaired or reused. The Board of Supervisors may require that this expert testimony and documentation include (but not be limited to): A property appraisal, income and expense statements for the property, a written estimate of the costs of rehabilitation by a qualified contractor, a written report from a professional engineer regarding the structural soundness of the building, testimony concerning efforts to market the property over time, information regarding the applicant's purchase price of the building, and similar relevant information.
- (g.) Self-Created Conditions – The conditions that justify the proposed demolition of a building regulated by this section shall not have been self-created by the applicant. These conditions include, but are not limited to:

- (i.) Lack of proper maintenance of the building, including but not limited to structural elements, the roof, windows or architectural elements, or
 - (ii.) Leaving parts of a building open to the elements or accessible to vandalism.
- (h.) The Zoning Officer may require any unoccupied building shall be properly sealed and secured to prevent decay from the elements and vandalism.
- (i.) Emergency – The Zoning Officer may issue a permit for the demolition without compliance with this section if the municipal building inspector certifies in writing that the building represents a clear and immediate hazard to public safety, and that no other reasonable alternatives exist to demolition.
- (j.) Exceptions – Conditional use approval shall not be needed for the following:
 - (i.) Demolition of accessory structures that are not attached to the principal building.
 - (ii.) Interior renovations or removal of features (such as a rear porch) that do not harm the structural stability of the building and that are not visible from a public street (not including an alley).
 - (iii.) Removal of features that were added since January 1, 1945, such as a modern porch or aluminum siding or carport.
 - (iv.) Relocation of a building within a municipality provided that the relocation does not result in a partial or complete demolition that is regulated by this section.
- (5.) Demolition by Neglect (see definition above).
 - (a.) Every property owner of a building regulated by this section shall repair and maintain the building to avoid demolition by neglect as determined by the building inspector.
 - (b.) If a property owner fails to comply with an order from the building inspector to repair a building regulated by this section to correct a building code violation that threatens the

structural integrity of a building, such matter shall be considered a violation of this section and the property owner may also be cited for a violation of this ordinance.

1653. Recreational Cabin

Only one (1) recreational cabin shall be permitted for each property as it existed on January 1, 2016. No campgrounds or other residential development shall be permitted by this section.

1654. Outdoor Seating and Dining and Outdoor Retail Sales and Displays

1. Outdoor Seating and Dining.

- a. Outdoor seating and dining shall be defined as an accessory use to a principal restaurant or tavern/nightclub use specified and that which are appropriately licensed and/or authorized to provide outdoor seating and dining services.
- b. Outdoor seating and dining may be located within public or private right(s)-of-way with prior municipal or state approval, whichever is appropriate.
- c. Outdoor seating and dining furniture and fixtures shall not obstruct driveways/alleyways, hydrant, standpipes, ventilation areas, utility access, or ramps.
- d. Outdoor seating and dining area furniture and fixtures (such as planters or outdoor seating area barriers) shall be constructed of high-quality materials consisting of wood, metal, concrete, or natural fibers. No vinyl, plastic, or synthetic furniture or materials shall be used. The description of the proposed outdoor seating furniture and fixtures should indicate if they will be moveable or affixed in a stationary manner.

- e. Outdoor seating and dining area furniture and fixtures should not obstruct ingress & egress from buildings.
- f. Outdoor seating and dining areas shall be appropriately screened from adjacent uses at the discretion of the Board of Supervisors.
- g. Pennsylvania Liquor Control Board requirements apply to outdoor seating and dining areas, including but not limited to requirements regulating noise and/or nuisances, shall be adhered to by the proprietor.
- h. Outdoor seating and dining areas must leave a minimum of six (6) feet wide clear pedestrian path on the paved sidewalk measured from the back of the curb or four (4) feet wide clear pedestrian path where there is an obstruction.
- i. The usable area for outdoor seating and dining on the sidewalk is directly along the building façade occupied by the food and/or drink service establishment.
- j. The proprietor of the food and/or drink service establishment associated with the outdoor seating and dining area is responsible for maintaining order in the outdoor seating area at all times. All customers consuming beer, wine, or other permitted alcoholic beverages at the outdoor seating area shall remain seated, and shall not stand in, or otherwise obstruct or impede pedestrian travel on the public sidewalks. Customers additionally shall not be permitted to move, re-arrange, or re-organize the outdoor seating area such that it obstructs or impedes pedestrian travel on the public sidewalks.

- k. The proprietor of the food and/or drink service establishment associated with the outdoor seating and dining area is responsible for the good repair and maintenance of the outdoor seating area including, but not limited to, the removal of any refuse, table scraps, and dining/glassware at close of business, and the maintenance, repair, and replacement of broken or damaged tables, chairs, umbrellas, or fixtures in the outdoor seating area.
- l. The outdoor dining areas shall be limited to the following hours:
 - 1. For service in private outdoor seating areas:
 - i. Not before 7:00 a.m. any day.
 - ii. Not after midnight any day.
 - 2. For sidewalk service on public property:
 - i. Not before 9:00 a.m. on any day.
 - ii. Not after 11:00 p.m. on Friday and Saturday.
 - iii. Not after 10:00 p.m. on Sunday through Thursday.
 - 3. No amplified music or live entertainment shall be allowed after 8:00 p.m. on any weekday (including Sunday) or after 10:00 p.m. on Friday or Saturday nights.

2. Outdoor Sales and Displays.

- a. Outdoor sales and displays shall be defined as the temporary display and sales of retail products that are directly sold by the principal permitted commercial use.
- b. Outdoor sales and displays may be located within public or private right(s)-of-way with prior municipal or state approval, whichever is appropriate.
- c. The usable area for outdoor sales and displays on the sidewalk is directly along the building façade occupied

by the principal permitted commercial service establishment.

- d. The maximum allowable outdoor sales and display area shall be fifty percent (50%) of the sum total of the following equation:

[Length of proposed front property line times (X) Required front setback]

- e. Outdoor sales and display furniture and fixtures should not obstruct egress from buildings.
- f. Outdoor sales and display areas must leave a minimum of six (6) feet wide clear pedestrian path on the paved sidewalk measured from the back of the curb or four (4) feet wide clear pedestrian path where there is an obstruction.
- g. No outdoor sales and display shall be allowed in areas set aside, required, or designated for driving aisles, driveways, maneuvering areas, emergency access ways, off-street parking, or unloading/loading.
- h. Outdoor sales and display fixtures shall not obstruct driveways, alleyways, hydrants, standpipes, ventilations areas, utility areas, or ramps.

1655. Shared Parking

The following regulations shall apply to shared parking:

- a. Shared parking shall be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day, especially for multi-story, vertically mixed-use buildings.
- b. The minimum number of parking spaces for a development and/or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the either Urban Land Institute's *Shared Parking* (3rd Edition, February 2020) or Institute of Transportation Engineers *Parking Generation Manual* (5th Edition, February 2019).

- c. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the above cited ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.

- d. Location.
 - 1. Shared spaces for residential units must be located within 300 feet of dwelling unit entrances they serve. Shared spaces at other uses must be located within 500 feet of the principal building entrances of all sharing uses. However, up to 20 percent of the spaces may be located greater than 500 feet but less than 1,000 feet from the principal entrances.
 - 2. Clear, safe pedestrian connections must be provided.
 - 3. Pedestrians should not be required to cross an arterial street except at a crosswalk-designed intersection along the pedestrian pathway.
 - 4. Up to 50 percent of nonresidential spaces may be provided at greater distances if dedicated shuttle bus or van service is provided from a remote parking facility.

- e. Shared Parking Agreement. If a privately-owned parking facility is to serve two or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces is required.

- f. Shared Parking Plan.

The following are required submissions for a shared parking proposal:

1. Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.
2. A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).
3. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.
4. A safety and security plan that addresses lighting and maintenance of the parking areas.