

# TOWNSHIP OF MIDDLETOWN

DELAWARE COUNTY, PENNSYLVANIA

(610) 565-2700

FAX: (610) 566-3640

27 N. PENNELL ROAD  
MEDIA, PA 19063

## AGENDA FOR THE ZONING ORDINANCE UPDATE COMMITTEE MEETING

MONDAY, JUNE 24, 2024, AT 5:00 PM IN THE TOWNSHIP BUILDING

Committee Members: Jackie Donnelly, Dave Decker, Karen Holm, Geoff Arbogast

Township Manager: John McMullan  
Dir. of Planning & Dev.: Meredith Merino

A. Review DRAFT Zoning Articles First drafts of :

- General Provisions
- Special Provisions
- Off- Street Parking
- Sign Regulations
- Open Space Regulations
- Administration
- Zoning Hearing Board
- Amendments

B. Review Full ZO Summary

  
\_\_\_\_\_  
Meredith Merino  
Director of Planning & Development

## ARTICLE XX: GENERAL PROVISIONS

### **§ 275-114. Purpose.**

The overall intent of these general provisions is to state the supplementary regulations and standards which are common to all uses in any zoning district.

### **§ 275-115. Applicability.**

This chapter shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of such corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. For the purposes of this section and chapter, a "public utility" shall be defined and limited as provided under the terms of the Pennsylvania Utility Code.

### **§ 275-116. Use requirements and restrictions.**

- A. General restrictions on use. No building may be erected, altered or used, and no lot or premises may be used for any trade, industry or business that is hazardous to the public whether by fire, explosion or otherwise. In determining whether a proposed use is hazardous, each such use shall be analyzed according to the environmental controls of this article.
- B. No internal combustion engine shall be used unless objectionable noise and vibration are eliminated and safe disposition is made of exhaust gases.
- C. No more than one permitted principal use shall be permitted on a lot, except in the following cases:
  1. Development in the SU, Special Use Districts.
  2. Multiple tenant occupancy as related to the C-1, C-2, and C-3 Districts for uses involving shopping centers.
- D. No activities which require the moving of earth or the filling or excavation of an area shall occur without a permit issued by the Township, pursuant to Chapter 186 of the Township Code. Finish grading or incidental grading of a lot and minor earth moving from one place to another on a lot for such activities as landscaping or pond maintenance may not require such a permit. The deposit and storage of soils, detritus or other debris shall be done in a way which is not unsightly or detrimental to surrounding properties, streets, sewers and natural watercourses.
- E. It shall be unlawful for any person, persons or business entity of any type, or their principals, officers, agents, and employees, to engage in earthmoving, drilling, grading or any type of excavation work, including, but not limited to, any activities that require a permit pursuant to § 275-198D, within a right-of-way occupied by a natural gas liquids pipeline that is within 1/4 mile of the property line of any school in the Township during the hours of 7:00 a.m. to 6:00 p.m. while the school is in session.
- F. Any person, persons or business entity found guilty of violating any of the foregoing provisions shall be subject to a fine of \$500 per day per violation, upon conviction before a Magisterial District Judge.

Should any act of assembly permit a fine in an amount greater than \$500, the greater of that amount or \$500 shall be permissible.

**§ 275-117. Lot and yard requirements.**

- A. Minimum lot size and setbacks. No lot area shall be so reduced that the area of the lot or the dimensions of the setbacks creating the various yard areas shall be made smaller than herein prescribed. Further, each principal use shall have its own separate lot area which cannot be counted as the lot areas for any other principal use. No chimney, tower, antenna or tank shall be located closer to a lot line than the height of the tower, chimney, antenna or tank.
- B. Special exceptions for lot width. In the case of a lot held in bona fide single and separate ownership at the effective date of this chapter which does not fulfill the requirements for minimum width for the district in which it is located, a building may be erected or altered thereon, provided that all other yard and setback requirements of the district are observed.
- C. Lot width at the street line. Every principal permitted building shall be built upon a lot with frontage upon a public or private street which is improved to meet Township standards or for which such improvements are required by a subdivision or land development plan, except as provided below.
- D. The following regulations shall apply to existing interior lots:
  - 1. For one or two existing interior lots, a common driveway may be provided subject to compliance with the following requirements:
    - a. A private driveway providing public street access to one or two existing interior lots shall have a recorded easement right-of-way of 50 feet in width and a paved cartway of not less than 16 feet in width. The paved cartway shall have a minimum setback of 50 feet from any existing dwelling. The fifty-foot-wide easement shall be unobstructed by any building.
    - b. A private driveway providing access to a public street for the one or two existing interior lots may also provide access for one lot which must have a minimum lot width at the street line as specified for the residence zoning district in which the lot is located.
    - c. In order to protect the public health, safety and general welfare of persons residing in dwellings on lots adjacent to a private driveway providing public street access to an existing interior lot or lots, buffer planting strips shall be provided within the easement area at appropriate locations to prevent the headlights of motor vehicles using the private driveway from shining directly on any dwelling or dwellings on any adjacent lots or lots. The buffer planting area shall be in accordance with Section 275-XXX.
    - d. If an existing interior lot exceeds the lot area required for the residence zoning district in which the lot is located, the existing interior lot may not be further subdivided to create any additional interior lots, and the owner of the existing interior lot shall record a restriction against further subdivision of the existing interior lot.
- E. The following regulations shall apply to flag lots and interior lots:
  - 1. Flag lots and interior lots shall be permitted only within the R-1 and R-1A Residential Districts and shall be subject to all regulations of this section and the applicable district regulations.
  - 2. Flag lots and interior lots shall be permitted within a subdivision when no other reasonable

alternative can be achieved.

3. Subdivisions of less than 5 acres. A Parent Tract containing less than 5 acres may be subdivided to contain one flag lot or one interior lot provided that:
  - a. Access for interior lots.
    - i. A private driveway providing public street access to the interior lot shall have a recorded easement right-of-way of 25 feet in width and a paved cartway of not less than 12 feet in width.
    - ii. The private driveway may also provide access for one additional lot which fronts completely on the street.
    - iii. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The twenty-five-foot-wide easement shall be unobstructed by any building or structure.
  - b. Access for flag lots.
    - i. The access strip serving any flag lot shall have a minimum width of 50 feet at the street line and shall not exceed 300 feet in length, as measured from the street right-of-way to the flag front line.
    - ii. The flag lot access strip shall be excluded from the required minimum lot area (net lot area) calculation imposed by the district regulations.
    - iii. The private driveway providing access to a public street for one flag lot may also share a driveway with any lot which fronts completely on the street. The recorded easement shall not be less than 25 feet in width and a paved cartway of not less than 12 feet in width. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The twenty-five-foot-wide easement shall be unobstructed by any building or structure.
4. Subdivisions of 5 acres or more. A Parent Tract containing 5 acres or more may be subdivided to contain no more than two interior lots, or one flag lot and one interior lot, provided that:
  - a. Access for interior lots.
    - i. A private driveway providing public street access to the interior lots shall have a recorded easement right-of-way of 50 feet in width and a paved cartway of not less than 16 feet in width.
    - ii. The private driveway may also provide access for one additional lot which fronts completely on the street.
    - iii. The paved cartway shall have a minimum setback of 50 feet from any existing dwelling and be a minimum of four feet from a property line. The fifty-foot-wide easement shall be unobstructed by any building or structure.
  - b. Access for flag lots.

- i. The access strip serving any flag lot shall have a minimum width of 50 feet at the street line and shall not exceed 300 feet in length, as measured from the street right-of-way to the flag front line.
  - ii. The flag lot access strip shall be excluded from the required minimum lot area (net lot area) calculation imposed by the district regulations.
  - iii. The private driveway providing access to a public street for one flag lot may also share a driveway with any lot which fronts completely on the street. The recorded easement shall not be less than 25 feet in width and a paved cartway of not less than 16 feet in width. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The twenty-five-foot-wide easement shall be unobstructed by any building or structure.
5. In order to protect the public health, safety and general welfare of persons residing in dwellings on lots adjacent to a private driveway providing public street access to an interior lot or lots, buffer planting strips shall be provided within the easement area at appropriate locations to prevent the headlights of motor vehicles using the private driveway from shining directly on any dwelling or dwellings on any adjacent lots or lots. The buffer planting area shall be in accordance with Article XX.
- (6) If a subdivision of a parent tract results in the creation of more interior lots than are permitted per Section 275-XX-E(3) and Section 275-XX-E(4), the access easement to the interior lot shall be 50 feet in width and must have a paved cartway which is constructed in accordance with the design standards for streets as set forth in the Township Subdivision and Land Development Ordinance. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The fifty-foot- wide easement shall be unobstructed by any building or structure. All interior lots created must have the minimum required frontage on the paved cartway of the street providing access.
- F. Front and side yards of corner lots. Corner lots shall be provided for equal setbacks on both streets.
- G. Front yard regulations. No building, accessory building, structure or accessory structure shall be located or constructed within the front yard except for the following structures, unless any such structures are specifically prohibited within required buffer areas or buffer planting strips: landscaping features such as walkways, benches, fences and retaining walls; lighting; signs; off-street parking; access drives and points of ingress/egress; and aboveground utility structures approved by Township Council.
- H. Side and rear yard regulations.
1. Where a minimum width of side yard is required, no building, accessory building, structure or accessory structure shall be erected within the minimum side yard area, except as provided in Subsections I and/or J, § 275-117 below.
  2. All residential reverse frontage lots shall have a rear yard with a minimum of 75 feet and, within

such rear yard and immediately adjacent to the street line of the major road, shall have a landscaped buffer consisting of hedges, walls, trees or earthen berms arranged so as to create a continuous visual barrier in accordance with § 275-213 of this chapter.

- I. Projections or encroachments into required yards. Except as provided in Subsections G, H, J, §275-117, no building, accessory building, structure or accessory structure or part thereof shall be erected within, or shall project into, any required yard except for patios, decks or other uncovered spaces, unenclosed fire escapes, unenclosed steps and Class A and Class C accessory buildings or accessory structures as provided in § 275-117. However, except for fences and approved driveways and except as otherwise provided in this chapter, all Class A or Class C accessory buildings or accessory structures must be located at least 10 feet from a property line.
- J. Projections or encroachments into required yards in residence districts. Buildings, accessory buildings, structures or accessory structures located in residence districts may be constructed or altered so that the following projections or encroachments are made into the required yard:
1. Cornices, eaves, gutters or chimneys may not project more than 18 inches into any front, side or rear yard.
  2. Steps, balconies and bay windows not extending through more than one story may project no more than five feet into any front, side or rear yard.
  3. Unless otherwise specified in this chapter, Class A accessory buildings or accessory structures may be located, erected or maintained in a side yard that does not abut the street or in a rear yard, provided that in no case shall such Class A accessory buildings or accessory structures be located less than ten feet from the rearmost portion of the main building on the lot, and no less than 10 feet from any lot line in the R-1A, R-1, and R-2 Districts, or five feet in the R-3 and R-4 Districts, unless a closer distance is authorized by the Zoning Hearing Board as a special exception; except for: fences, landscaping, and approved driveways.
  4. Unless otherwise specified in this chapter, Class C accessory structures may be located, erected or maintained in a side yard that does not abut the street or in a rear yard, provided that in no case shall such Class C accessory structures be any closer than 10 feet to any lot line, except for: fences, landscaping, and approved driveways.
  5. Unless this chapter expressly provides otherwise, no accessory building or accessory structure may be located in a required front yard or required side yard which abuts a street except for permitted signs, fences and/or structures associated with ingress and egress and structures required by the Township for stormwater management, provided that they are no closer to the street than 15 feet from the street line.
  6. No Class B accessory building or accessory structure may be located, erected or maintained in any front yard, side yard or rear yard.
  7. Anything herein to the contrary notwithstanding, tennis courts, swimming pools and similar accessory uses, accessory buildings or accessory structures may extend into the required side and rear yards only when authorized by the Zoning Hearing Board as a special exception.
- K. Lot area for Township easements on private property for stormwater facilities. In the case where an

easement is granted to the Township on private property for a stormwater facility (basin or like structure constructed as a BMP to store water) for use in part as a Township facility, that portion of the private property on which the basin easement is located shall not be deducted from the lot area.

**§ 275-118. Height limitations of fences and walls.**

No fence or wall (except a retaining wall or wall of a building permitted under the terms of this chapter) over six feet in height shall be erected within any of the required open yard areas, provided that a portion of the fence or wall may exceed six feet in height if such portion contains openings therein equal to 50% or more of the area of said portion of the fence or wall and further provided that any fence or wall is in accordance with § 275-203.

**§ 275-119. Exceptions to height regulations for buildings and structures.**

The Township Council shall determine that the height regulations prescribed within this chapter may be exempted for spires, steeples, belfries, cupolas or domes not used for human occupancy or for chimneys, ventilating fans, air-conditioning equipment, roof structures for the housing of elevators and/ or stairways, fire or parapet walls, skylights, flagpoles, water tanks, utility poles or towers, windmills, silos, smokestacks and ornamental or other necessary mechanical appurtenances. The height regulations for communication antennas and communications towers shall be as set forth in §§ 275-216 and 275-216.1.

**§ 275-120. Corner vision obstruction.**

On any lot, no wall, fence, berm or other structure shall be erected or maintained and no hedge, tree, shrub or other growth shall be maintained which may cause danger to traffic on a street by obscuring the view. No obstruction shall be placed or maintained within the clear sight triangle as defined by the design standards and required improvements for streets set forth in Chapter 210, Subdivision and Land Development.

**§ 275-121. Underground electric and telephone wiring.**

Electric, telephone and cable television wiring shall be placed underground for every structure, dwelling or other use in all residential districts and in the Outdoor Recreation District, unless approved otherwise by Township Council.

**§ 275-122. Accessory uses and accessory buildings or accessory structures.**

Accessory uses and accessory buildings or accessory structures may include but not necessarily be limited to the following:

- A. Uses, buildings and structures accessory to agriculture.
  - 1. The sale of farm products produced on the property, provided that no roadside stands used for such sale shall remain on the property during seasons when products are not sold and that adequate parking and provisions for safe ingress and egress be provided.
  - 2. Signs for the sale of farm products shall be in accordance with Article XXIII.
- B. Uses, buildings and structures accessory to dwellings.

1. Detached private garage, private parking area, private stable on lot of not less than one acre, private noncommercial barn, shed, shelter for pets, swimming pools in accordance with this section, bath house and private noncommercial greenhouse.
2. Quarters for guests and staff, when authorized as a special exception.
3. Pole, mast, tower or other structure for amateur radio operations, subject to the determination made by the Township Council as defined in Article XXXIV.
4. Swimming pools. Swimming pools permitted as an accessory use to a principal residential use shall comply with the following conditions and requirements:
  - a. The pool is intended, and is to be used, solely for the enjoyment of the occupants of the principal permitted use of the property on which it is located, and their guests, and may not be operated commercially.
  - b. Swimming pools designated to contain more than 18 inches of water shall be erected in conformity with the following:
    - [1] A permit shall be required to locate, construct or maintain a swimming pool as a residential accessory use.
    - [2] Swimming pools may be in the rear or side yard setback area only when authorized as a special exception and shall not be in the front yard. In no case shall such pool be located under any electrical lines or over any utility lines (including sewer and water lines).
    - [3] Every in-ground swimming pool shall be entirely enclosed with a good-quality chain link, wooden or other equivalent fence of not less than four feet in height, equipped with a locking gate. Such fence shall be placed either near or adjacent to the pool or at such other place on the owner's premises as to constitute an adequate barrier against entrance onto the owner's land or into said pool.
    - [4] If the water for such pool is supplied from a private well, there shall be no cross-connection with a public water supply system.
    - [5] If the water for such pool is supplied from a public water supply system, the inlet shall be above the overflow level of said pool.
    - [6] No permit shall be granted for the installation or construction of any in-ground pool, permanent pool or portable pool having a capacity of 15,000 gallons or more, unless the Township Engineer has certified that the drainage of such pool is adequate and will not interfere with the water supply system, existing sanitary facilities or public streets.
5. Sport courts. A court may be located in a rear or side yard setback area only when authorized by a special exception and shall not be located in a front yard. Court fences may be constructed but shall not exceed 10 feet in height.
6. Home Based Businesses. The Zoning Officer shall determine whether a proposed home-based business is classified as a no-impact home-based business, a home occupation, a home professional

office, or does not qualify as a home-based business. The applicant shall be responsible for supplying such information as deemed necessary by the Township to make this determination. Applicants for home occupations shall be required to obtain a permit per this Section.

a. No-Impact Home- Based Business.

Such use shall be permitted as an accessory use by right in any residential districts and shall require Applicants to obtain a permit annually. Per Act 247, in order to qualify as a no-impact homebased business, the following criteria shall be met:

- i. The use is carried on only by family members residing in the dwelling and shall employ no other persons;
- ii. The use is compatible with the residential use of the property and surrounding residential uses.
- iii. There is no exterior indication of a business use, including signs or advertising beyond that permitted for residential uses in Article XXIII as well as that permitted for residential parking and lighting;
- iv. There is no display or sale of retail goods and no stockpiling or inventory of a substantial nature;
- v. The use does not involve any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- vi. The use does not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- vii. The use is conducted only within the dwelling and does not exceed twenty-five percent (25%) of the habitable floor area.
- viii. The use does not involve any customer, client, or patient visits to the dwelling, whether pedestrian or vehicular;
- ix. Commercial delivery and pickup of goods and supplies or removal functions are not in excess of postal and parcel service normally associated with a residential use;
- x. The use does not involve any illegal activity.

b. Home occupations. A home occupation shall be permitted as a conditional use in any residential district provided that the following criteria are met:

- i. A home occupation shall be permitted, provided that the principal person engaged in the home occupation is a resident of the dwelling unit. Such home occupation shall be incidental or secondary to the use of the property as a residence and is limited to those occupations listed below.
- ii. Occupations which may be authorized as an accessory use include the following

- occupations: manufacturer's representative, dressmaker, milliner, music teacher, teacher, artist or like occupation which is lawfully conducted for pecuniary gain by a resident within the dwelling unit.
- iii. Off-street parking spaces in accordance with Article XXII shall be screened from the view of surrounding residential homes by landscaping approved by the Township.
  - iv. No individuals shall be employed on the premises by the operator of a home occupation.
  - v. The area of dwelling used for the home occupation shall be no more than 25% of the total usable floor area of the dwelling unit.
  - vi. No manufacturing, repairing or other mechanical work, performed in connection with such home occupation, shall be performed in any open and/or outdoor area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference or smoke shall be noticeable at or beyond the property line.
  - vii. No storage of materials or products shall be permitted in open and/or outdoor areas.
  - viii. No external alterations shall be permitted to the dwelling unit except those customarily conducted for residential buildings.
  - ix. Signs or outside advertisement may be permitted only in accordance with the provisions of Article XXIII.
  - x. The operation of any home occupation involving the physical presence of customers, clients or other business visitors shall be limited to 7:00 a.m. to 9:00 p.m.
  - xi. Prohibited home occupations: A home occupation shall not be interpreted to include such facilities as: a barber shop, beauty shop or hair stylist; spa or Massage therapy establishment, fitness studio, tea room, tourist home, funeral home, convalescent home, daycare, dog daycare, kennel or similar use of a commercial nature.
- c. Home professional offices. A home professional office shall be permitted as a conditional use in any residential district provided that they meet the following criteria:
- i. A home professional office may be permitted if the principal person using the office is the resident of the dwelling unit. Such office shall be incidental or secondary to the principal use of the property as a residence.
  - ii. Professions for which an accessory use office may be operated in a residentially zoned dwelling may include a physician, attorney, dentist, accountant, architect, professional engineer, or similar profession who customarily has an office in the home. A professional office shall not be interpreted to include a real estate office or other commercial office, shop or use such as a barber shop, beauty shop, hair stylist or a funeral home, or any of the uses prohibited as a home occupation.
  - iii. Off-street parking spaces, in accordance with Article XXXI, are required when a professional office is operated as an accessory use in a dwelling. Such parking shall be screened from the view of surrounding dwellings with landscaping approved by the Township.

- iv. In addition to the owner-occupant, or more than one, or the equivalent of one, full-time employee shall be employed at a professional office operated as an accessory use in a dwelling.
  - v. The area used for a home professional office shall occupy no more than 25% of the total usable floor area of the dwelling unit.
  - vi. No manufacturing, repairing or other mechanical work performed in connection with such home professional office shall be performed in any open and/or outdoor area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference or smoke shall be noticeable at or beyond the property line.
  - vii. No storage of materials or products shall be permitted in open and/or outdoor areas.
  - viii. No external alterations shall be permitted to the dwelling unit which are not consistent with the principal residential character and design.
  - ix. No products shall be sold on the premises.
  - x. Signs or outside advertisement may be permitted only in accordance with the provisions of Article XXXII.
  - xi. The operation of any home occupation involving the physical presence of customers, clients or other business visitors shall be limited to 7:00 a.m. to 9:00 p.m.
7. In Law Suites. In-law suites shall only be permitted by-right in the R-1A, R-1 and R-2 Zoning Districts and are subject to the following standards and regulations:
- a. In-law suites may be created for personal, non-commercial use and shall be restricted for the occupancy and/or care of a relative or legal dependent as defined by § 275-XX of this chapter.
  - b. An in-law suite may be occupied by a maximum of two occupants.
  - c. The in-law suite shall comply with the Township Building Code in effect at the time of building permit application.
  - d. The in-law suite must be contained within the primary structure and cannot be in a detached accessory structure; The in-law suite shall be an integral part of the primary residence, with an interior connection that shares a common space in the dwelling (i.e. mudroom), such that upon the termination of its use as an in-law suite, the rooms may incorporated back into the original single-family residence.
  - e. The floor area of the in-law quarters shall not exceed 35% of the combined floor area of the principal dwelling plus the in-law quarters.
  - f. The principal dwelling must retain its appearance as a single-family dwelling.
  - g. All utilities shall be shared, including, but not exclusive to, gas, electric, heat, water service and sewer service.
  - h. A use and occupancy and zoning permit shall be required prior to the occupancy of an in-law

quarters.

- i. The Zoning Officer shall require the property owner(s) to execute an affidavit which shall be recorded, at the owner's expense, with the Office of the Delaware County Recorder of Deeds. The affidavit shall specify the restrictions of an in-law quarters and shall prohibit the property owner(s) and future property owner(s) from renting the in-law quarters as an apartment to nonrelatives.
  - j. Denial, suspension or revocation of use and occupancy permit. The Township shall deny a use and occupancy permit if the owner(s) has not demonstrated compliance with all of the provisions and standards of this section. Any such use and occupancy permit issued may be suspended or revoked by the Township where the Township finds that the owner(s) failed to comply with any of the provisions or standards of this section or with the provisions of any other applicable ordinance or law.
8. Solar Energy Systems. Solar energy systems shall be permitted as an accessory use requiring a Zoning permit, subject to the provisions set forth herein. A system is considered an accessory solar energy system only if it supplies electrical power primarily for on-site use of principal or accessory uses permitted on the subject property and subject to the following:
- a. Design. The design and installation of an accessory solar energy system shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories, the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with Chapter 45, Building Construction Code, the National Electric Code and all other applicable fire and life safety requirements.
  - b. Glare. Accessory solar energy systems shall be installed so as to prevent glare or concentrated solar radiation as may otherwise be directed onto other properties or onto roadways such that a nuisance situation is created.
  - c. Solar Access Easements. An accessory solar energy system shall be located to ensure solar access without reliance on adjacent properties. Where any applicant desires to ensure that solar access to a solar energy system shall not be obstructed over time by permissible uses or activities on any adjacent property (i.e., by planting or growth of vegetation, new construction, etc.), it shall be the responsibility of the owner of the solar energy system to obtain appropriate solar access easement(s) from neighboring property owner(s) and to notify the Township upon the recording of any such easement(s). All solar access easements shall be recorded in the office of the Delaware County Recorder of Deeds.
  - d. Roof-Mounted Systems.
    - i. Under no circumstance shall the solar energy system extend beyond the edge of the roof.
    - ii. Notwithstanding otherwise applicable height limitations, a roof-mounted solar energy system may exceed the height of the ridgeline of any sloping roof upon which it is mounted by no more than one (1) foot, where the pitch of the roof exceeds a ratio of one to three (1:3).

- iii. Regardless of other applicable height limitations, a roof-mounted solar energy system on a flat roof, or where the pitch of the roof is less than a ratio of one to three (1:3), may exceed the height of the roof at its highest point by no more than four (4) feet.
  - iv. All roof-mounted systems shall have/accommodate safe access for fire service and maintenance, as deemed appropriate by the Building Code Official and/or Fire Marshal.
  - v. Structural Integrity. For any roof-mounted solar energy system, the applicant shall demonstrate to the satisfaction of the Building Code Official, by credible evidence that the structural integrity of the structure is such that it can adequately support the roof mounted system being considered.
- e. Ground-Mounted (Freestanding) Systems
- i. All ground-mounted accessory solar energy systems shall only be permitted behind the principal structure and shall not exceed a total of five hundred (500) square feet cumulatively.
  - ii. Impervious Coverage. For the purposes of this Section, all "at grade" or "above grade" features and facilities relating to ground-mounted accessory solar energy systems, including mechanical equipment, shall be considered pervious surface.
  - iii. Building coverage. The area of a ground-mounted solar energy system shall be calculated as building coverage and shall not exceed the building coverage of the underlying zoning district. The area of a ground-mounted solar energy system is the dimension of the footprint of the cumulative solar panel(s). Where two (2) or more panels are grouped together, the dimensions (length and/or width) shall be the cumulative dimension of the panels.
  - iv. Ground-mounted solar energy systems shall not exceed fifteen (15) feet in height and shall meet the area bulk requirements of the district they are in.
  - v. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the installation shall be locked to prevent unauthorized access or entry.
  - vi. Ground-mounted solar energy systems shall not be placed within any legal easement or right-of-way or be placed within any stormwater management infiltration or conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater management system.
  - vii. If a ground-mounted solar energy system is removed, any earth disturbance due to the removal shall be graded and reseeded to the satisfaction of the Township.
- f. Abandonment or Disrepair. If the solar energy system is abandoned or enters a state of disrepair, the property owner shall be responsible to remove or properly maintain the solar energy system within six (6) months from the date the system enters such a state or immediately in any case determined to be a safety hazard by the Township or other regulatory authority.

### § 275-123. Conversion into two-family or multiple-family dwellings.

The Township Council may permit, as a conditional use, the conversion of a building in any residence district to a dwelling for more than one family, provided that:

- A. The plans for the conversion of said dwelling shall be submitted to the Township Council.
- B. Such plans shall provide adequate and suitable parking in accordance with Article XXII.
- C. In order to qualify for conversion, the building must be located on a lot with an area not less than the product of the minimum single-family lot area of the district multiplied by the number of dwelling units to which such building is to be converted.
- D. There shall be no external alteration of the building, except as may be necessary for reasons of safety, that will disrupt the residential character of the surrounding area. Fire escapes and outside stairways shall, where practicable, be located in the rear of the building.

### § 275-124. Nonconformities.

- A. Continuation. All structures, uses of structures and uses of land that do not conform to the regulations of the district in which they are located after the effective date of this chapter shall be regarded as nonconforming, and the following regulations shall apply to them.
  - B. Alteration or extension.
    1. Nonconforming structures. Nonconforming structures may be altered or enlarged, provided that such alteration or enlargement does not, on the effective date of this chapter, increase the extent of the nonconformity of the overall structure more than 10%, except patios, decks and screened and open porches. These excepted extensions of the nonconforming structure shall not protrude any further into the setbacks but can align with the structure the extent to which it is already nonconforming. In the case of a nonconforming structure which is used by a nonconforming use, such alteration or enlargement shall also meet the requirements of Subsection G below.
    2. Nonconforming lots. A lot which contains no structures and which is held in single and separate ownership on the effective date of this chapter, or subsequent amendments, or rendered nonconforming by this chapter, which does not meet the minimum lot area requirement or lot width requirement at the building line of the zoning district in which it is located, or which is of such unusual dimensions that the owner cannot reasonably comply with one or more of the other dimensional requirements of the zoning district in which it is located, may be used or a structure may be erected thereon for use as limited by the use regulations of the zoning district in which the lot is located, subject to the following conditions:
      - a. The owner does not own or control contiguous property sufficient to enable the owner to comply with the minimum lot area, width, building coverage, yard and height regulations and design standards of the zoning district in which the property is located. For purposes of this regulation, a nonconforming lot under common ownership with a contiguous conforming or nonconforming lot which, when combined, would create a lot of conforming size or which would be consolidated to minimize the nonconformity, shall be required to be combined and considered one lot.

- b. The proposed structure or use shall comply with the design standards and the width, building coverage, yard and height regulations, except minimum lot size and lot width at the building line, of the zoning district in which the lot is located. Otherwise, the lot shall not be used or a structure erected unless a variance is granted by the Zoning Hearing Board
- 3. Nonconforming uses. Nonconforming uses shall not be altered or enlarged, except in accordance with the following provisions:
  - a. Such alteration or enlargement shall be permitted only by conditional use under the provisions of Article XXV.
  - b. Such alteration or enlargement shall be upon only the same lot as was in existence on the date the use became nonconforming.
  - c. Any increase in volume or area of the nonconforming use shall not exceed an aggregate of more than 10% of said volume of floor area during the life of the nonconformity.
- C. Restoration. A nonconforming building or any building containing a nonconforming use wholly or partially destroyed by fire, explosion, flood or other phenomenon or legally condemned may be reconstructed and used for the same nonconforming use, provided that reconstruction of the building shall be commenced within one year from the date the building was destroyed or condemned, and shall be carried on without interruption, or else the nonconforming building or use shall be deemed to be abandoned.
- D. Ownership. Whenever a lot is sold to a new owner, a previously lawful nonconforming use may be continued by the new owner, provided that there is no enlargement or change in the nonconformity.
- E. Abandonment. If a nonconforming use of a building or land is abandoned for 12 consecutive months, whereby the owner discontinues the use with the intention neither of transferring rights of the property to another owner nor of resuming the use of the property, the subsequent use of such building or land shall conform to the regulations of the district in which it is located, unless another nonconforming use is approved by the Township Council in accordance with Subsection F and that such approved use be initiated within 30 days after the end of the twelve-month period.
- F. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another equally restrictive or more restrictive nonconforming use only if permitted as a conditional use by the Township Council and subject to the following conditions:
  - 1. The applicant shall show that a nonconforming use cannot reasonably be changed to a conforming use.
  - 2. The applicant shall show that the proposed change will be no more objectionable in external effects than the existing nonconforming use with regard to:
    - a. Traffic generation and congestion.
    - b. Noise, smoke, dust, fumes, vapors, gases heat, odor, glare or vibration.
    - c. Outdoor storage.
    - d. Sanitary sewage disposal.

3. In the case of an application for a conditional use to alter or enlarge a nonconforming use or to change a nonconforming use to another nonconforming use, the applicant shall be responsible for establishing to the satisfaction of the Township Council that the proposed expansion or change in use will not cause an increased detrimental effect on surrounding properties or the neighborhood in which it is located. In making its decision on the relative detriment, the Township Council shall also take into consideration the standards included in Article XXV. Any alteration or enlargement authorized by the Township Council shall represent the minimum modification that will afford the relief required.

- G. District changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses of structures existing in the district to which the area was transferred.

### § 275-125. Environmental controls.

- A. No building may be erected, altered or used and no lot or premises may be used for any trade, industry, business or other activity that is noxious or offensive by reason of odor, dust, smoke, gas, vibration, illumination, noise, toxic chemicals or other disturbance which constitutes a public hazard, whether by fire, explosion or otherwise. In determining whether a proposed use is or may become noxious, hazardous or offensive, each such use shall comply with the performance standards below; and no internal combustion engine shall be used unless objectionable noise and vibration are eliminated and proper disposition is made of exhaust gases.
- B. It is the intent of these regulations to prevent land or buildings, including those permitted by right, conditional use or special exception, from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable condition such as fire, explosion or other hazards; noise or vibration; glare or heat; condition conducive to the breeding of rodents or insects; or other substance, adversely affecting the surrounding area. All uses shall operate in conformance with the environmental controls set forth herein and relevant statutes, codes, rules and other regulations of the United States Government, the Commonwealth of Pennsylvania, Delaware County and governmental, quasi-governmental and governmentally regulated bodies, companies and authority entities. The most stringent regulation applicable shall be used.
- C. All plans for proposed development in the Township shall illustrate, depict, note or otherwise demonstrate compliance with this section and in accordance with the requirements of Chapter 210, Subdivision and Land Development, and § 275-198A through F, if applicable.
- D. Noise Controls. Refer to Chapter 155, Noise.
- E. Smoke. No smoke shall be emitted from any chimney or other source of visible gray opacity greater than No. 1 on the Ringelmann Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a shade not darker than No. 2 on the Ringelmann Chart may be emitted for not more than four minutes in any thirty-minute period.
- F. Dust, fumes, vapors and gases.
  1. The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, animals or vegetation, or to other forms of property or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission in herewith prohibited.

2. Except as otherwise designated below under specific contaminants in Subsection F(3) of this section, no emission of liquid or solid particles from any chimney or otherwise shall exceed 0.3 grains per cubic foot of the covering gas at any point beyond the lot line of the use creating the emission. For measurement of the amount of particles in gases resulting from combustions, standard correction shall be applied to a stack temperature of 500° F. and 50% excess air in the stack at full load.
3. Specific contaminants. The Ambient Air Quality Standards for the Commonwealth of Pennsylvania shall apply to the release or airborne toxic materials across lot lines. Specific contaminant standards are as follows:
  - a. Fugitive emissions. As required by Sections 123.1 and 123.2, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.
  - b. Particulate Matter Emissions. As required by Sections 123.11, 123.12, and 123.13, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.
  - c. Sulfur compound emissions. As required by Sections 123.21, 123.22, and 123.23, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.
  - d. Where there are, in addition to the above regulations, relevant air pollution regulations of the United States Government or of the Commonwealth of Pennsylvania, the most stringent regulation applicable shall be used.
- G. Heat and glare. No use shall produce heat perceptible beyond its lot lines. The specific Rules and Regulations of the Pennsylvania Department of Environmental Protection with respect to heat and glare shall apply.
- H. Odor. No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the most restrictive provisions of Table III (odor thresholds) in Chapter 5, "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C., as revised.
- I. Vibrations. No use shall cause earth vibrations or concussions detectable beyond its lot lines without aid of instruments with the exception of that vibration produced as a result of construction activity and quarry mining.
- J. Storage and waste disposal.
  1. All storage of flammable materials shall comply with the provisions of the Middletown Township Fire Code.
  2. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse undesirable as a source of water supply or recreation, or

which will destroy aquatic life, be allowed to enter any stream or watercourse.

3. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards or any leaching to substratum.

K. Soil erosion, sedimentation and grading control.

1. No construction or development activity shall occur unless in strict compliance with Chapter 210, Subdivision and Land Development, and all other Code provisions, as applicable. Such reference is made to call particular attention to the controls which shall be exercised when clearing trees and other vegetation or otherwise changing or altering the landform.

L. Slope controls. Refer to **Article XXV**.

M. Traffic control. Refer to Chapter 235 Vehicles and Traffic.

### **§ 275-126. Environmental impact assessment report.**

- A. An environmental impact assessment (EIA) report shall be submitted with the following types of applications or plans in order to more effectively evaluate subdivision, land development or other building and construction proposals:
  1. Applications for tentative and final plan approval for planned residential developments.
  2. Applications for preliminary plan approval for any industrial, commercial or institutional subdivision and/or land development.
  3. Preliminary plans for any proposed subdivision of land for residential purposes consisting of 10 or more dwellings.
  4. Applications or plans for other uses which Township Council finds potentially to have significant environmental consequences or effects.
  5. For the purposes of this section, a community center shall not constitute an industrial, commercial or institutional use.
- B. The EIA report shall disclose the environmental consequences or effects of proposed projects and the actions proposed to avoid, remedy and/or mitigate adverse impacts. The EIA report shall contain text, maps and analysis in accordance with Subsection C below. The EIA report may be cross-referenced to plans prepared for a subdivision or land development and may utilize such plans to fulfill some of the required plan data requested below.
- C. A copy of the EIA report and one digital copy shall be submitted in accordance with the format and content specified below. Within the EIA report, specific emphasis shall be directed toward the proposed project's effects on the relationship to applicable site, neighborhood (including areas in adjacent townships, where applicable) and Township-wide resources, conditions or characteristics. The EIA report shall include text, tables, maps and analyses for the purpose of describing the project site, proposed use(s), environmental characteristics and the environmental effects of the proposal as follows:

1. An identification of the site location and area by use of a location map, drawn at a scale of not more than 2,000 feet to the inch. The location map shall depict all streets, adjoining properties, zoning district boundaries and municipal boundaries within 1,000 feet of any part of the property. In the case of development of a section of the entire tract, the location map shall also show the relationship of the section to the entire tract.
2. An identification of site character and appearance through the presentation of black-and-white photographs or copies thereof. Such photographs shall provide a representation of what the site looks like from the ground. Photographs shall be properly identified or captioned and shall be keyed into a map of the site.
3. An identification of the nature of the proposal through the presentation of the following:
  - a. A site development plan including notes pertaining to the number and type of lots or units, the square footage and/or acreage of the tract and depiction of the features which are proposed such as streets, driveways, parking areas, buildings and other structures and other impervious surfaces. The plan shall be drawn at a scale of not more than 100 feet to the inch and may be either incorporated into the EIA report or submitted as an attachment to the report. The plan shall reflect all the information required under the plan requirements section of Chapter 210, Subdivision and Land Development; however, existing and proposed contours shall be depicted at vertical intervals of two feet or less.
  - b. Floor plans and elevations depicting the proposed size, square footage, height, number of rooms or bedrooms (where applicable), of buildings and/or other structures.
  - c. A statement indicating the existing and proposed ownership of the tract and, where applicable, the type of ownership, operation and maintenance proposed for areas devoted to open space or otherwise not under the control of a single lot owner.
  - d. A statement indicating the proposed staging or phasing of the project, where applicable, and a map depicting the boundaries of each stage or phase of the project. It is suggested that such boundaries be superimposed on a version of the site development plan.
4. An identification of physical resources associated with the natural environment of the tract including such features as topography, soils, hydrology and the like. The identification of physical resources shall include a narrative description of the qualitative and quantitative aspects of each of the resources mentioned above. In addition, these resources shall be mapped at a scale of not more than 100 feet to the inch as specified below and either may be incorporated into the EIA report or submitted as attachment to the report.
  - a. A map depicting the topographical characteristics of the site. Such map shall contain contours with at least two-foot intervals and shall depict slopes from 0% to 8%, 8% to 15%, 15% to 25% and greater than 25%.
  - b. A map depicting the soil characteristics of the site. Such map shall depict all soil types and shall include a table identifying soil characteristics pertinent to the proposed development such as depth to bedrock, depth to water table, flood hazard potential and, where applicable, limitations for septic tank filter fields.
  - c. A map depicting the hydrological characteristics of the site. Such map shall depict surface

water resources, their drainage characteristics, watersheds and floodplains and groundwater resources. Surface water resources include features such as creeks, runs and other streams, ponds, other natural bodies of water, springs, wetlands and any man-made impoundments. Groundwater resources include features such as aquifers and aquifer recharge areas.

5. An identification of biological resources associated with the natural environment of the site including such features as vegetation. The identification of biological resources shall include a narrative description of each of the resources mentioned above. In addition, these resources shall be mapped at a scale of not more than 100 feet to the inch as specified below and may be either incorporated into the EIA report or submitted as attachments to the report.
  - a. A map depicting the vegetation characteristics of the site. Such map shall define the locations and boundaries of the wooded areas of the tract and shall note the types of vegetation associations which exist in terms of their species, types and size. In addition, all trees 12 inches or greater in caliper shall be accurately located on the map.
6. An identification of the land use conditions and characteristics associated with the site such as current and past use, land cover and physical encumbrances and the relationship of these to adjacent sites. The identification of land use condition and characteristics shall include a narrative description of the above. In addition, the following maps, drawn at a scale of not more than 100 feet to the inch, unless otherwise noted, shall be incorporated into the EIA report or submitted as attachments to it.
  - a. A map depicting the land cover characteristics of the site. Such map shall define existing features including, where applicable: paved or other impervious surfaces, wooded areas, cultivated areas, pasture, old fields, lawns and ornamentally landscaped areas and the like.
  - b. A map depicting any physical encumbrances to the subject property. Such map shall define, where applicable, easements and areas where certain use privileges exist.
  - c. A map depicting the land uses adjacent to the proposed tract. Such map may be at the same scale as the location map, i.e., one inch equals 2,000 feet.
7. An identification of the historic resources associated with the site such as areas, structures and/or roads and trails which are significant. Areas, structures and/or routes included on the National Register of Historic Places, the Pennsylvania Inventory of Historic Places and the Historic American Building Survey and those depicted on the Township's Historic Sites Map shall be identified. The identification of historic resources shall include a narrative description of the above. In addition, a map drawn at a scale of not more than 100 feet to the inch depicting historic resources shall be incorporated into the EIA report or submitted as an attachment to the report.
8. An identification of the visual resources associated with the site such as areas which have a particular amenity value and areas which offer interest in viewing the tract. The identification of visual resources shall include a narrative description of the above. In addition, a map drawn at a scale of not more than 100 feet to the inch depicting visual resources shall be incorporated into the EIA report or submitted as an attachment to the report.
9. An identification of the community facility needs associated with the users and/or residents of the proposed project. The community facility needs assessment shall indicate in narrative form the types of services which will be in demand. Where applicable, community facilities (such as

schools, park and recreation areas, libraries, hospitals and other health care facilities, fire protection, police protection, ambulance and rescue service and postal services) shall be discussed in terms of the ability of existing facilities and services to accommodate the demands of future users and/or residents of the site and the need for additional or expanded community facilities.

10. An identification of the utility needs associated with the users and/or residents of the proposed project. The utility needs assessment shall indicate in narrative form the type of installations which will be in demand. Where applicable, utilities (such as those used for water supply, sewage disposal, refuse disposal, storm drainage, communications and electrical transmission) shall be discussed in terms of: the ability of existing utility installations to accommodate the demands of future users and/or residents of the lots and/or tract; the need for additional or expanded utility installations; the ability to achieve an adequate, potable quantity of water wherever individual wells are proposed; the ability to achieve an adequate system for on-site sewage disposal wherever such a system is proposed; and the ability to achieve an adequate system for storm drainage and stormwater management.
11. An identification of the relationship of the transportation and circulation system needs of the proposed project to the existing street or highway network. A discussion of this relationship shall be in narrative form and shall indicate factors such as methods to be used for traffic control within the site and at points of ingress to and egress from it and expected traffic volumes generated from the project including their relationship to existing traffic volumes on existing streets for peak hour and nonpeak hour conditions. In addition, there shall be a discussion of the physical condition of existing streets which will service the proposed project to remedy any physical deficiencies. The analysis and evaluation of traffic shall be conducted in accordance with the following:
  - a. No activity shall occur which would adversely affect traffic flow and/or present traffic controls within the Township by creating a level of service below that which is specified in this subsection.
  - b. To minimize potential adverse conditions, the level of service for traffic along any portion of a road which leads to the points of ingress and egress of a tract or other proposed property shall be a level of service "C" or better. The term "level of service" and the categories thereof are used herein in accordance with the definitions or meanings ascribed thereto in this document entitled "Trip Generation, An Institute of Transportation Engineers Informational Report, Second Edition, 1979," or the edition in use at the time a development or other building application is made.
  - c. The determination of levels of service shall be made after an experienced transportation engineer/traffic consultant conducts a traffic study, the cost of which shall be borne by the owner of the tract or other property owner. Said study shall be based in part on the aforementioned report and in part on the Pennsylvania Department of Transportation Handbook of Vehicle Code Regulations, in particular the following chapters: 471-610 pertaining to Engineering and Traffic Studies, 471-611 pertaining to maintenance and Protection of Traffic and 471-615 pertaining to Official Traffic Control Devices. Said study shall indicate compliance with the requirement for a level of service "C" or better as set forth in Subsection C(9)(b) above and shall include the data upon which the conclusions of said study are based including, without limitation, traffic counts, the hours thereof, the dates

thereof and the types of motor vehicles comprising such counts.

- d. All streets and/or intersections showing a level or service below "C" shall be considered deficient, and specific recommendation for the elimination of these problems shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external street and intersection design and improvements and traffic signal installation and operation including signal timing.
12. An identification of the social and demographic characteristics related to the proposed project. The characteristics which shall be presented in narrative form shall include a profile of the future users and/or residents including information such as the number of people expected to work or live at the tract. Such information shall be related to initial and completed project conditions.
  13. An identification of the economic and fiscal characteristics related to the proposed project. The characteristics which shall be presented in narrative form shall include a profile of the Township; county and school district revenues which the proposal may generate; and the Township, county and school district costs it may create. Such information shall be related to initial and completed project conditions.
  14. An identification of characteristics and conditions associated with existing and potential air and water quality and noise levels, vibration, toxic materials, electrical interference, odor, glare and heat, radioactive materials, smoke, dust, fumes, vapors, gases or other emissions.
  15. An identification of compliance with the environmental controls/performance standards as required in this Article, XX.
  16. The implications of the proposed project in terms of the type of beneficial or adverse effects which may result from it and the duration of these effects in terms of their short-term or long-term nature. To indicate such effects, there shall be a discussion of the implications of the proposed project to the resources, conditions and characteristics described in Subsection C(1) through (15) above. In addition to a narrative presentation of implications, the applicant shall display where the project adversely affects the resources of the tract, conditions or characteristics, by mapping same at a scale of not more than 100 feet to the inch, wherein the areas adversely affected from the proposed development are highlighted. Such map either may be incorporated into the EIA report or submitted as an attachment to the report. Further, the applicant must demonstrate and specify in the EIA report how and where the findings in the EIA report and its attachments are reflected in the proposed plans in terms of avoiding or reducing potential adverse effects.
  17. Alternatives to the proposed project. The applicant shall comment on how alternatives such as revised location, redesign, layout or siting of buildings, roads and other structures; alternate methods for sewage disposal and water supply; reduction in the size of proposed structures or number of structures; and the like, would preclude, reduce or lessen potential adverse impact to produce beneficial effects. In addition, the applicant shall submit exhibits or diagrams which will depict the type of alternatives described in narrative form.
  18. Probable adverse effects which cannot be precluded. In indicating such effects, a discussion shall be presented regarding whether they will have primary or secondary implications, that is, whether the adverse effects will have direct or indirect influence on a particular resource, condition or characteristic.

19. Measures to mitigate adverse effects. To indicate such measures, the applicant shall submit exhibits or diagrams which will depict the type of remedial, protective and mitigative measures described in narrative form. These measures shall include those required through existing procedures and standards and those unique to a specific project, as follows:
    - a. Mitigation measures which pertain to existing procedures and standards are those related to current requirements of the state, county and/or Township for remedial or protective action, such as sedimentation and erosion control, water quality control, air quality control and the like.
    - b. Mitigation measures related to impacts which may be unique to a specific subdivision and/ or land development or other project are those related to efforts such as revegetation, screening, fencing, emission control, traffic control, noise control, relocation of people and/or businesses, land acquisition and the like.
  20. Any irreversible environmental changes which would occur due to the proposed subdivision and/or land development or other project should it be implemented. To indicate such changes, the use of nonrenewable resources during the initial and continued phases of the subdivision and/or land development or other project shall be discussed. Further, the loss of environmental resources shall be indicated through a presentation of the quantity of loss and related qualitative effects.
- D. In making its evaluation, the Township Council and/or the Planning Commission may request any additional information it deems necessary to adequately assess potential environmental impacts. Further, whenever any information required in this section is not applicable to the proposed subdivision and/or land development or other project, the applicant shall indicate such inapplicability in the narrative of the EIA report and state why such information is considered to be inapplicable in the case or the particular subdivision or land development in question.
- E. The EIA report shall be prepared by an engineer, architect, landscape architect or land planner.

**§ 275-127. Buffer area standards.**

- A. Buffer areas, as defined in Article II and required in various districts, shall be adjacent to a property boundary.
- B. Buffer areas shall be landscaped and maintained in accordance with § 275-214 and the following herein:

Landscaped Buffer and Screen Requirements		
Use or District	Adjacent Use or District	Minimum Buffer Planting Strip Width (feet)
C-1	Residential; Any other use	25; 15
C-2	Residential; Street line	50; 30
C-3	Residential	10
Institutional	Any Use	30
Industrial	Residential	30
SU-1A	See Design Standards	
SU-1	Any Use	50

SU-2	Any Use	10
Multifamily	Any Use	20
Mobile Home Park	Any Use	50

- C. All plantings shall be installed and maintained for the full width required in a particular district, except that certain structures may be placed within the buffer area, including:
  - (1) The required plantings and related landscape treatment, such as berms, fences or walls which aid in screening and do not conflict with the character of adjoining properties or block the clear sight distance required at intersections.
  - (2) Appurtenant landscaping structures such as: tree wells, tree guards and tree grates and retaining walls used to preserve stands of existing trees or used for other functional purposes.
  - (3) Roads which provide direct ingress/egress for the tract, including appurtenant structures within such road rights-of-way such as curbs, sidewalks, signs, lighting standards or benches.
  - (4) Underground utilities.
- D. No structures other than those set forth in § 275-213C shall be placed within a buffer area, and no parking of any kind shall be permitted within the required buffer area.

**§ 275-128. Landscaping requirements.**

- A. Landscaping as required in this chapter shall be installed and maintained in accordance with a landscaping plan approved by the Township Council. A landscaping plan shall depict all proposed plantings as required within buffer areas in the form of a buffer planting strip and in other landscaped areas which relate to, complement, screen or accentuate buildings roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and other site features.
- B. A landscaping plan shall be submitted at the time when all other required applications and/or plans are submitted. It shall be based on the reflect the following:
  - 1. The functional and aesthetic factors which relate to the tract and to the principal and accessory buildings and other structures.
  - 2. Concealing views to the tract.
  - 3. Enhancing views from and within the tract.
  - 4. Screening and complimenting proposed buildings and other structures.
  - 5. Creating visual interest for the users and/or residents of the proposed project.
  - 6. Using plant materials which are hardy and acclimated to the conditions at the tract and within the Township.
- C. The landscaping plan shall include notes, diagrams, sketches or other depictions to present the consideration and analysis of the following:
  - 1. An analysis of the site in terms of: the existing views to and from the areas which are

proposed for development, the existing topography and vegetation conditions and other existing conditions which are relevant to the site.

2. An analysis of proposed planting and other landscaping needs as related to: screening views of buildings, screening buildings and sections of buildings, screening parking areas and other areas where vehicles are parked, screening storage areas, screening site utilities, and other appropriate types of screening.
  3. The consideration of locations where plantings and other landscaping is needed to: provide visual interest; define outdoor spaces; complement the proposed architectural style; and achieve other functional and aesthetic requirements for buffer areas, buffer planting strips and other landscaped areas.
- D. A preliminary and final landscaping plan shall reflect the following detailed criteria, unless more specific criteria are provided for in other articles of this chapter:
1. Buffer planting strips shall be installed and maintained in the buffer areas at the width required in this chapter to form a continuous visual buffer. In addition to ground covers and evergreen shrubs, the buffer planting strips shall be comprised of evergreen trees which are six to eight feet in height at the time of planting and shall be spaced at nine foot centers. The combined evergreen shrubs and tree plantings shall constitute a continuous visual screen at the time of occupancy of any buildings and/or at the time of initiation of any use.
  2. Shade trees shall be provided along all streets and shall be located at least three feet beyond the right-of-way line. No less than one tree of 3 1/2 inches to four inches in caliper shall be planted for each 30 feet of roadway length. Such trees shall be planted in alternating rows whereby trees on one side of the street are placed at intervals of 60 feet. However, such trees may be grouped in certain cases to achieve a particular design objective when approved by the Township Council.
  3. The outer perimeter of all parking areas shall be screened. Effective screens may be accomplished through the use of plant materials, fencing or walls and/or mounding through the use of earthen berms.
  4. Parking lots shall be landscaped as required in Article XXXI.
  5. All buildings shall be landscaped in accordance with the following criteria:
    - a. A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonably close proximity to the facades.
    - b. One specimen deciduous tree of 3 1/2 inches to four inches in caliper shall be planted for every fifty-foot length of building facade measured from end to end of buildings, without regard to indentations and the like in the buildings or facades, and excluding any enclosed walkway connectors and elevator cores, such trees shall be a minimum of 11 feet to 13 feet in height at the time of planting; and one eight-foot to ten-foot specimen evergreen tree shall be planted for every 50 feet of length of building facade.
    - c. Five evergreen and/or deciduous shrubs shall be planted for every 20 feet of length of building facade.

- d. Trees and shrubs shall be grouped in accordance with specific needs and objectives.
  6. Other landscaping including trees, shrubs and ground covers shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially on the outer side of any internal access roads which are visible from a public street which may adjoin a tract, at the entrance to buildings and around structures used for service, storage or maintenance purposes.
  7. The location, type, size, height and other characteristics of landscaping shall be subject to the review and approval of the Township Council.
- E. The preliminary landscaping plan shall be drawn at a scale of at least one inch equals 50 feet. It shall be totally coordinated with the overall site plan and shall contain the following:
1. A delineation of existing and proposed plant materials.
  2. A delineation of other landscaping features such as berms, planting beds to be used for herbaceous plants, areas to be devoted to lawns and other elements of the proposed improvements such as fences, walls, berms, retaining walls, lighting, benches, signs, paving, stone, tree wells and the like.
  3. One color rendering of the preliminary landscaping plan shall be submitted for review by the Township in addition to the number of prints which are otherwise required. The color-rendering shall reflect total coordination with the overall site plan in terms of its relationship to proposed buildings, roads, parking areas, walks, walls, fencing, benches, signs, lighting and other like structures.
  4. A written narrative of the analysis and objectives for plantings as required under Subsection C above. After the Township has reviewed the preliminary landscaping plan and submitted comments on the plan to the applicant, a final landscaping plan shall be submitted. The final landscaping plan shall be drawn in greater detail than the preliminary plan. It shall be totally coordinated with the overall site plan and shall contain the following:
    5. A final version of all of the plan requirements stated in Subsection E above, for a preliminary plan.
    6. A plant list wherein the botanical and common names of proposed plants are tabulated, along with the quantity, caliper, height and other characteristics.
    7. Details for the planting and staking of trees, the planting of shrubs and any other details which depict other related installation.
    8. Information in the form of notes or specifications concerning planting beds to be used for herbaceous plants, areas to be devoted to lawns and the like. Such information shall convey the proposals for seeding, sodding, mulching and the like.
    9. Information regarding the continued maintenance of all plantings and notes indicating that all plantings will be installed, maintained and replaced, if dead or diseased, in locations as shown on the approved landscaping plan.
- F. Plant characteristics and maintenance.
1. All plants shall conform with the standards for nursery stock of the American Association of Nurserymen.

2. Trees and shrubs shall be typical of their species and variety, have normal growth habits, well developed, densely foliated branches and vigorous, fibrous root systems.
3. Trees and shrubs shall be free from defects and injuries and certified by appropriate federal and state authorities to be free from diseases and insect infestations.
4. Trees and shrubs shall be freshly dug and nursery grown. They shall have been grown under climatic conditions similar to those in locality of the project or properly acclimated to conditions of the locality of the project.
5. Any tree or shrub which dies within one year of planting shall be replaced. Any tree or shrub which within one year of planting or replanting is deemed, in the opinion of the Township, not to have survived or grown in a manner characteristic of its type shall be replaced. Substitutions for certain species of plants may be made only when approved by the Township Council.
6. It shall be the responsibility of the landowners, tenants and/or other occupants of the premises to adequately and properly maintain the landscaped areas, which responsibility shall include watering, cleaning of weeds and debris, pruning and trimming, replacement of dead or diseased plantings and fertilizing to maintain healthy growth.
7. All trees along the right-of-way of any property shall be kept trimmed nine feet above the sidewalk and 11 feet above all streets.
8. All shrubs and other growth abutting the sidewalks shall be kept cut back six inches from the edge of the sidewalks.
9. Existing trees and shrubs at the corner of an intersection and/or driveway shall be cut to the height of 18 inches from point of intersection of corner property lines back 25 feet to avoid blocking sight distance to oncoming traffic, and shrubs or ground covers to be planted shall be of the dwarf variety and shall not exceed 18 inches in height at maturity.

#### **§ 275-129. Outdoor Storage and Display.**

Commercial storage. When required by this chapter, commercial storage shall meet the following criteria:

- A. All storage, including, but not limited to, storage of refuse, trash, garbage, recycling, equipment, mechanical equipment and/or generators, shall be completely screened from view from any public right-of-way and any adjacent property.
- B. No permanent storage of merchandise, articles or equipment shall be permitted outside a building and no goods, articles, or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.
- C. Screening shall consist of evergreen plantings and/or an architectural screen.
- D. No storage area shall be located within the front yard of any lot.
- E. In addition to the standards listed above, all dumpsters and/or outdoor storage of refuse bins shall meet the following criteria:
  1. All organic rubbish or garbage shall be contained in tight, vermin-proof containers.

2. Any area for the storage and collection of refuse, trash, or garbage shall be screened from direct view by fencing or masonry walls, which shall be a minimum of six feet high and at least one foot higher than the trash receptacles contained therein.
3. All screening, inclusive of any enclosure gate(s), shall be visually opaque.
4. Fencing, screening, and any enclosure gate(s) shall at all times be maintained in good repair.
5. Chain link fencing and/or gates shall not be permitted for the screening of dumpsters and/or outdoor storage of refuse bins.
6. When adjoining a residential district the rubbish or garbage enclosure shall be setback a minimum of 50 feet from the residential property line.

### **§ 275-130. Outdoor Lighting.**

- A. Purpose. To set and require minimum standards for outdoor lighting to:
  1. Provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns
  2. Protect drivers and pedestrians from the glare of non-vehicular light sources
  3. Protect neighbors, the environment and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained or shielded light sources
  4. Promote energy efficient lighting design and operation
  5. Protect and retain the intended visual character of the various Township venues
- B. Applicability
  1. All uses within Middletown Township where there is interior or exterior lighting that creates or has the potential to create a nuisance or hazard as viewed from outside, or exterior lighting with the potential to create, or that creates a nuisance when viewed from inside or outside, including but not limited to, residential, commercial, industrial, public and private recreational/sports and institutional uses, and sign, billboard, architectural and landscape lighting.
  2. The Township may require lighting be incorporated for other uses, applications and locations or may restrict lighting in any of the above uses or applications when health, safety and welfare are issues.
  3. The glare-control requirements herein contained apply to lighting in all uses, applications and locations.
  4. Temporary seasonal decorative lighting is exempt from all but the glare-control requirements of this Ordinance.
  5. Emergency lighting, as may be required by any public agency while engaged in the performance of their duties, or for illumination of the path of egress during an emergency as described in NFPA 75 and NFPA 101, are exempt from the requirements of this Lighting Ordinance.
- C. Definitions

1. Adequately Shielded – The attribute of a light source from which no direct glare is visible at normal viewing angles, by virtue of its being properly aimed, oriented, and located and properly fitted with such devices as shields, barn doors, baffles, louvers, skirts or visors as needed.
2. BUG - An IES rating system of the Backlight, Uplight and Glare light distribution of a luminaire.
3. CCT - Correlated Color Temperature - A rating of the warmth or coolness of the color of the light output, expressed in degrees Kelvin or degrees K, e.g. 3000K.
4. Footcandle – Unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), and measurable with an illuminance meter, a.k.a. light meter.
5. Full Cutoff – Attribute of a luminaire from which no light is emitted at or above a horizontal plane drawn through the highest light-emitting portion of the luminaire and no more than 10% of the lamp’s intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the luminaire.
6. Fully Shielded – Attribute of a luminaire from which no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire.
7. Glare – Excessive brightness in the field of view that is sufficiently greater than that to which the eyes are adapted, so as to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare
8. Illuminance – Quantity of incident light, measured in footcandles
9. Light Trespass – Light emitted by a luminaire or lighting installation, which is cast beyond the boundaries of the property on which the lighting installation is sited.
10. Lumen – As used in the context of this Ordinance, the light-output rating of a lamp (light bulb).
11. Luminaire - A complete lighting fixture assembly consisting of lamp(s) or LED light cluster, lamp holders, electrical components, light directing devices, shielding devices and lenses or diffusers.
12. Nit - A unit of measure of the luminance or brightness of the light emitted or reflected from a surface, e.g., sign face. Also referred to as candelas per square meter (cd/m<sup>2</sup>).

#### D. Criteria

1. Illumination Levels – Lighting, where required by this Ordinance, or otherwise required or allowed by the Township or other applicable jurisdiction, shall have illuminances, uniformities and glare control in accordance with the latest edition of the IES Lighting Handbook or current Recommended Practices of the Illuminating Engineering Society of North America (IESNA). Future amendments to said Lighting Handbook and Recommended Practices shall become a part of this Ordinance without further action by the Township.
2. Luminaire Design
  - a. Luminaires shall be of a type and design appropriate to the lighting application and shall be aesthetically acceptable to Township.

- b. For the lighting of predominantly horizontal surfaces such as, but not limited to parking areas, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, cul-de-sacs, active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, luminaires shall be aimed straight down, have no uplight and shall meet IESNA fully shielded criteria. Except as may be specified elsewhere in this Ordinance, luminaires shall have a BUG rating of B1-U0-G1. Luminaires with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent, 10-watt LED or 10-watt compact fluorescent lamp, are exempt from the requirements of this paragraph. In the case of decorative street lighting luminaires, Township may approve the use of luminaires with an uplight component not exceeding 1%.
  - c. For the lighting of predominantly non-horizontal tasks or surfaces, such as, but not limited to, facades, landscaping, signage, billboards, fountains, displays and statuary; when their use is specifically permitted by the Township, luminaires shall be adequately shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Luminaires with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent, 6-watt LED or 10-watt compact fluorescent lamp, are exempt from the requirements of this paragraph.
3. Color Temperature – LED light sources shall have a correlated color temperature that does not exceed 3000K.
4. Lighting Control
- a. All lighting shall be aimed, located, designed, fitted, shielded and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
  - b. Directional luminaires such as floodlights and spotlights, when their use is specifically approved by the township, shall be so shielded, installed and aimed that they do not project their output onto the properties of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way. Floodlights installed above grade on residential properties shall not be aimed out more than 45° from straight down. When Township judges that a floodlight creates glare as viewed from an adjacent residential property or use, the floodlight shall be required to be reaimed and/or fitted with a shielding device to block the direct view of the glare from that property.
  - c. Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until no more than one-half hour after closing.

- d. “Barn lights,” aka “dusk-to-dawn lights,” when judged by Township to be a source of glare as viewed from an adjacent residential use or roadway, shall not be permitted unless effectively shielded as viewed from the adjacent property or roadway.
- e. The use of floodlights and wall-mounted luminaires (wall packs) to illuminate parking areas and cartways, shall not be permitted unless it can be proven to the satisfaction of the Township that the employment of no other acceptable means of lighting would be possible.
- f. Lighting for parking areas and vehicular and pedestrian traffic ways for commercial, industrial and institutional uses shall be automatically extinguished nightly within 1/2 hour of the close of the facility. On/off control shall be by astronomic programmable controller with battery or capacitor power-outage setting reset. When after-hours site safety/security lighting is proposed, such lighting shall not be in excess of twenty-five (25) percent of the number of luminaires required or permitted for illumination during regular business hours. The use of greater than 25% of the number of luminaires for normal lighting for all-night safety/security lighting shall require Township approval, based on the unique nature of the use or elevated area crime justification. Alternatively, where there is reduced but continued onsite activity throughout the night that requires site-wide even illumination, the use of dimming circuitry to lower illumination levels by at least 50% after 11:00 p.m. or after normal business hours, or the use of motion-sensor control, shall be permitted.
- g. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as full cutoff/fully shielded luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle and luminaire placement.
- h. The illumination projected from any use onto a residential use shall at no time exceed 0.1 footcandle, measured line-of-sight and from any point on the receiving residential property. This footcandle value, however, shall not be used as a criterion for assessing whether unacceptable level of glare is being received on the property.
- i. Except as permitted for certain recreational lighting and/or permitted elsewhere in this Ordinance, full cutoff/fully shielded luminaires shall not be mounted in excess of twenty (20) feet above finished grade of the surface being illuminated. Where proposed parking lots consist of 100 or more contiguous spaces and the light sources are full-cutoff/fully shielded, the Township may, at its sole discretion, based partially on mitigation of potential off-site impacts, allow a luminaire mounting height that does not exceed 25’ AFG. Luminaires not meeting full-cutoff or fully shielded criteria, when their use is specifically permitted by Township, shall not be mounted in excess of 16’ AFG. Mounting height shall be defined as the distance from the finished grade of the surface being illuminated to the optical center of the luminaire. For recreational lighting maximum mounting height requirements, refer to “Recreational Uses” elsewhere in the Ordinance.
- j. Only the United States and the State flag shall be permitted to be illuminated past 11:00 p.m. The light source shall have a beam spread no greater than necessary to illuminate the flag at full staff and shall be shielded so the light source (lamp and reflector) is not visible at normal viewing angles.

- k. Under-canopy lighting for such applications as gas/service stations, hotel/theater marquees, fast-food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff luminaires aimed straight down and shielded in such a manner that the lowest opaque edge of the luminaire shall be below the light source and its light-directing surfaces, at all lateral angles around the luminaire. The average maintained illumination in the area directly below the canopy shall not exceed 20 initial average footcandles, with no value exceeding 30 initial footcandles.\_

#### 5. Installation

- a. Electrical feeds for lighting standards shall be run underground, not overhead and shall be in accordance with the NEC Handbook.
- b. Poles supporting luminaires for the illumination of parking areas and located within the parking area or directly behind back-in parking spaces, or where they could be struck by snow plows or wide-swinging vehicles, shall be suitably protected by being placed a minimum of five (5) feet outside or behind paved area or tire stops, or placed on concrete pedestals at least thirty (30) inches high above the pavement, or suitably protected by steel bollards or other Township-approved means.
- c. Pole-mounted luminaires for lighting horizontal tasks shall be aimed straight down and poles shall be plumb.
- d. Poles and brackets for supporting luminaires shall be those specifically manufactured for that purpose and shall be designed and rated for the luminaire and mounting accessory weights and wind loads involved.
- e. Pole foundations shall be designed consistent with manufacturer's wind load requirements and local soil conditions involved and shall be reviewed and approved by a qualified civil/structural engineer.
- f. Any employed shielding elements shall be permanently affixed to luminaire.

- 6. Maintenance – Luminaires and ancillary equipment shall be maintained so as to always meet the requirements of this Ordinance.

#### E. Residential Developments

- 1. Street Lighting - For residential developments where lot sizes are or average less than 20,000 square feet, if the Township so directs, street lighting shall be provided at:
  - a. the intersection of public roads with entrance roads to the proposed development,
  - b. intersections involving proposed public or non-public major-thoroughfare roads within the proposed development,
  - c. the apex of the curve of any major-thoroughfare road, public or non-public, within the proposed development, having a radius of 300 feet or less,
  - d. at the far end of cul-de-sac bulbs
  - e. terminal ends of center median islands having concrete structure curbing, trees and/or other fixed objects not having breakaway design for speeds of 25 m.p.h. or greater,
  - f. defined pedestrian crossings located within the development,

- g. where lot sizes prohibit the parking of more than three (3) vehicles on the residential lot, thereby necessitating on-street parking.
- h. At other locations along the roadway as required by Township

2. Parking Spaces

- a. In residential developments with lots of less than twenty thousand (20,000) square feet, where four (4) or more common contiguous parking spaces are proposed, such spaces shall be illuminated in accordance with Section D.
- b. In multi-family developments, common parking areas of 4 spaces or greater shall be illuminated.

3. On-Lot Lighting - For subdivisions with lot sizes of 40,000 sq. ft. or smaller, on-lot lighting shall be provided in accordance with the following restrictions:

a. Lighting Fixtures

- (1) Floodlights, spotlights and other directional sources, whether for security, architectural/decorative, facade, landscaping, task lighting or recreational purposes, shall be located, aimed and shielded in a manner that prevents the lighted aperture of the source (direct glare) from being directly visible off premises.
- (2) Residential recreational lighting shall not project beyond the recreational surface.
- (3) Facade-mounted and post-top luminaires shall be fully shielded.
- (4) LED light sources shall have a correlated color temperature not exceeding 2700K.

b. On/Off Control

- (1) All exterior lighting, except security lighting, shall be extinguished nightly by no later than 11 p.m.
- (2) Lighting intended for all-night safety/security purposes shall be motion-sensor controlled and only energized in the presence of motion.
- (3) Recreational lighting shall be extinguished no later than 10:30 p.m.

F. Recreational Uses – The nighttime illumination of outdoor recreational facilities for such aerial sports as baseball, basketball, soccer, tennis, track and field, and football typically necessitate higher than normally allowed luminaire mounting heights and aiming angles, utilize very high-wattage lamps and potentially produce unacceptable levels of light trespass and glare when located near residential properties. Permission to illuminate such facilities shall be granted only when the Township is satisfied that the health, safety and welfare rights of nearby property owners, and the Township as a whole, have been properly protected. When recreational uses are specifically permitted by the Township for operation during hours of darkness, the following requirements shall apply:

- 1. Race tracks and such recreational venues as golf driving ranges and trap-shooting facilities that necessitate the horizontal or near horizontal aiming of luminaires and projection of illumination, shall not be permitted to be artificially illuminated.

2. Recreational facilities for basketball, baseball, football, soccer, miniature golf, tennis or track shall not be illuminated if located within a residential district or sited on a nonresidential property located within 1,000 feet of a property containing a residential use.
3. Sporting events shall be timed to end at such time that all lighting in the sports facility, other than lighting for safe exit of patrons, shall be extinguished by ten (10:00) p.m., regardless of such occurrences as extra innings or overtimes.
4. The Township reserves the right to limit the number of illuminated sporting events per week or season.
5. Maximum mounting heights for recreational lighting shall be in accordance with the following:
 

a.	Basketball	20'
b.	Football	70'
c.	Soccer	70'
d.	Lacrosse	70'
e.	Little League Baseball	
	(1)    200' Radius	60'
	(2)    300' Radius	70'
f.	Miniature Golf	20'
g.	Swimming Pool Aprons	20'
h.	Tennis	20'
i.	Track	20'
6. The use of engine/generator portable boom lighting shall not be permitted within the Township.
7. To assist the Township in determining whether the potential impacts of proposed lighting have been suitably managed, applications for illuminating recreational facilities shall be accompanied not only with the information required under Section G. below, but also by a visual impact plan that contains the following:
  - a. Plan views containing a layout of the recreational facility and showing locations of poles supporting luminaires, and the locations of residences on adjoining properties.
  - b. Elevations containing pole and luminaire mounting heights, horizontal and vertical aiming angles and luminaire arrays for each pole location.
  - c. Elevations containing initial vertical illuminance plots at the boundary of the site, taken at a height of 5' line-of-sight
  - d. Elevations containing initial vertical illuminance plots on the windowed facades of all residences facing and adjacent to the recreational facility. Such plots shall demonstrate compliance with the light trespass and glare control requirements of this Ordinance.
  - e. Proposed frequency of use of the facility during hours of darkness on a month-by-month basis and proposed time when all of the sports lighting will be extinguished.
  - f. A narrative describing the measures proposed to achieve minimum off-site light-trespass disturbance.

- G. Plan Submission – Where site lighting is required by this Ordinance, is otherwise required by Township, or is proposed by Applicant, lighting plans shall be submitted for Township review and approval for Subdivision & Land Development, applications. The submitted information shall include, as a minimum, the following:
1. A site plan or plans, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), existing and proposed trees, and adjacent uses that might be adversely impacted by the lighting. The lighting plan shall contain a layout of all proposed and existing luminaires, including but not limited to area, architectural, building entrance, canopy, soffit, landscape, flag, sign, etc., by location, orientation, aiming direction, mounting height, lamp photometry and type.
  2. A 10'x10' illuminance grid (point-by-point) plot of maintained horizontal footcandles at grade, overlaid on the site plan, plotted out to 0.0 footcandles, which demonstrates compliance with the light trespass, illuminance and uniformity requirements as set forth in this Ordinance, or as otherwise required by Township. When scale of plan, as judged by the Township to make a 10'x10' grid plot illegible, a more legible grid spacing may be permitted.
  3. Light-loss factors, IES candela test-filename, BUG rating, initial source lumen ratings used in calculating plotted illuminance levels
  4. Description of proposed equipment, including luminaire catalog cuts, photometrics, glare reduction devices, sources, source correlated color temperature, on/off control device locations, details and setting, luminaire mounting heights, pole foundation details, pole protection means and mounting methods.
  5. Landscaping plans shall contain symbols of luminaire locations, demonstrating that the site lighting and landscaping have been coordinated to minimize conflict between vegetation and intended light distribution, both initially and at vegetation maturity.
  6. When requested by Township, Applicant shall also submit a visual-impact plan that demonstrates appropriate steps have been taken to mitigate potential consequences of on-site and off-site glare and to retain the intended character of the Township. Township may require plan to include initial vertical footcandle values at specific off-site venues, e.g., bedroom windows of adjacent residential uses.
  7. Plan Notes – The following notes shall appear on the Lighting Plan:
    - a. Post-approval alterations to lighting plans, or intended substitutions for specified lighting equipment on approved plan, shall be submitted to Township for review and approval, prior to installation. Requests for substitutions shall be accompanied by catalog cuts of the proposed equipment that demonstrate proposed substitution is equal to or exceeds the quality, optical characteristics and maintainability of the specified luminaires; and be accompanied by a lighting plan, including point-by-point plot, which demonstrates proposed substitutions will result in a lighting design that complies with Ordinance requirements and equals or exceeds the quality of the lighting on the approved plan.
    - b. Township reserves the right to conduct post-installation inspections, to verify compliance with Ordinance requirements and approved Lighting Plan commitments,

and if deemed appropriate by Township, to require remedial action at no expense to Township.

- c. All exterior lighting, including building-mounted lighting, shall meet full-cutoff or fully-shielded criteria, unless otherwise specifically approved by Township.
- d. Installer shall notify Township to arrange for inspection and approval of all installed exterior lighting, subsequent to its installation.

#### H. Compliance Monitoring

##### 1. Safety Hazards

- a. If Township judges a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action without undue delay.
- b. If appropriate corrective action has not been effected within fifteen (15) days of notification, or valid reason for needed extra time, Township, at its discretion may initiate appropriate legal action.

##### 2. Nuisance Glare and Inadequate Illumination Levels

- a. When Township judges an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels, or otherwise varies from the requirements of this Ordinance, the Township may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.
- b. If the infraction so warrants, Township may act to have the problem corrected as in H.1.b. above.

#### I. Nonconforming Lighting –

- 1. Any luminaire or lighting installation existing as of the effective date of this Ordinance, which does not conform with the revised Ordinance requirements, shall be considered as grandfathered and a lawful nonconformance, except as follows:
  - a. It is replaced by another luminaire or luminaires, or abandoned or relocated
  - b. It is deemed by Township to create a health or safety hazard
  - c. Minor corrective action, such as reaiming, automatically shutting off offending sources at a reasonable hour nightly, or shielding can be performed to achieve conformity with the applicable requirements of this Ordinance.
  - d. It's light source is converted to or replaced by an LED source type, or luminaire containing LED sources.
- 2. Regardless of the requirements of Section I.1. above, when requested by Township, nonconforming luminaires and lighting installations shall be made to conform with the requirements of this Ordinance or removed within three (3) years from the effective date of this Ordinance.

#### **§ 275-131. Steep Slopes ERIC JANETKA TO REVIEW entire section**

The provisions of this Section are designed to encourage the sensitive treatment of hillsides and their related

soil and vegetation resources in an effort to minimize adverse environmental impacts.

#### **A. Scope.**

The provisions shall only apply in those instances where the particular development, land use, building permit application or other zoning permission or approval is of such nature and scope that application for land development plan approval or subdivision plan approval is not required under and pursuant to Chapter 210, Subdivision and Land Development. In those instances where Chapter 210, Subdivision and Land Development, is applicable, Article IX, Steep Slope Conservation Districts, of that chapter shall govern and prevail.

#### **B. General provisions.**

- A. Compliance. No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this article and other applicable regulations.
- B. Preservation of other restrictions. It is not intended by this article to repeal, abrogate or impair any regulations set forth in any other articles herein any regulations set forth in any other articles herein, any regulations of Chapter 210, Subdivision and Land Development, or any easements, covenants or deed restrictions, except that where this article imposes greater restrictions, its provisions shall prevail. Further, nothing contained in this article shall diminish in any way the provisions of the Clean Streams Law and/or Chapter 102 of the Department of Environmental Protection's rules and regulations, or any other applicable state, federal, county or Township regulations, codes, ordinances and the like.

#### **C. Boundary definition and mapping.**

- (1) The Steep Slope Conservation District is comprised of areas of steep and very steep slopes, as shown on the Steep Slope Conservation District Map, which is attached to and made part of this chapter. The map constitutes only a general representation of steep and very steep slopes, based on the analysis of the contours displayed on the most recent United States Geological Survey (USGS) quadrangles for Media, Pennsylvania, and Marcus Hook, Pennsylvania. As such, refined mapping will be required to more accurately define the district, as specified in Subsection C(5) below.
  - (2) Areas of steep slope are characterized by a change in elevation from 15 to 25% over the distance and contour interval specified in Subsection C(5) below.
  - (3) Areas of very steep slope are characterized by a change in elevation greater than or equal to 25% over the distance and contour interval specified in Subsection C(5) below.
  - (4) The Steep Slope Conservation District Map shall be considered as an overlay to the Middletown Township Zoning Map, subject to the following:
    - (a) The district shall have no effect on the permitted uses in the underlying zoning district, except where said uses, intended to be located within the boundaries of the district, are in conflict with the permitted uses set forth in § 275-180.
    - (b) In those areas of the Township where the district applies, the limitations of the Steep Slope Conservation District, as set forth herein, shall be in addition to the requirements of the underlying zoning district or districts.

- (c) Should the district boundaries be revised as a result of judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this section.
- (5) Interpretation of district boundaries.
- (a) The applicant shall use an actual field topographic survey as the source of contour information and the basis for depicting steep and very steep slopes as described below.
  - (b) The Steep Slope Conservation District Map (based on the ten-foot contour interval from USGS) shall be used as a general guide for determining the boundaries of the district. In any application for subdivision and/or land development, the applicant shall, using the contour interval as required in Chapter 210, Subdivision and Land Development, delineate slopes from 15% to 25% and greater than or equal to 25%.
  - (c) Mapping of steep and very steep slopes shall be performed using a tick-strip or other suitable measuring device.
  - (d) Whenever five-foot contour intervals are required by Chapter 210, Subdivision and Land Development, for minor subdivisions, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a ten-foot or more vertical change in grade. Thus, the representative sample of steep and/or very steep slopes for minor subdivisions will be 10 or more feet of vertical grade change.
  - (e) Whenever two-foot contour intervals are required by Chapter 210, Subdivision and Land Development, for major subdivisions and/or land developments or as required for an environmental impact assessment under Article XXXIV, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a six foot or more vertical change in grade. Thus, the representative sample of steep and/or very steep slopes for major subdivisions and/or land developments will be six or more feet of vertical grade change.
  - (f) The mapping by the applicant will be reviewed by the Township Engineer. The applicant will be required to follow all regulations of this article for those areas which reflect steep slope and very steep slope conditions, as determined through the Township Engineer's review.

### **C. Use regulations.**

#### **A. Areas of very steep slope (greater than 25%).**

- (1) Permitted principal uses.
  - (a) Agricultural uses that do not require cultivation or structures.
  - (b) Conservation and recreation uses not requiring structures.
  - (c) Front, rear or side yards of any lot or tract.
  - (d) Structures existing prior to the effective date of this chapter.

- (2) Uses permitted as conditional uses.
  - (a) Conservation and recreation uses requiring structures.
  - (b) Agricultural structures and cultivation.
  - (c) Utility lines for public utilities, such as but not limited to sewer, gas, electrical, telephone and cable television.
  - (d) Accessory structures to any uses permitted in Subsection A(1) and/or A(2)(a), (b) and/or (c) above.
  - (e) Roads and driveways only when no viable alternative alignment or location is feasible, provided that such roads and driveways are aligned predominantly parallel to the contours.
  - (f) Uses permitted in the underlying zoning district.
- (3) Prohibited uses and activities.
  - (a) Cut and fill, other than in association with any uses related to Subsection A(1) and/or (2) above.
  - (b) Soil, rock or mineral extraction and/or removal, other than in association with any uses related to Subsection A(1) and/or A(2) above.
  - (c) Removal of topsoil, other than in association with any uses related to Subsection A(1) and/or A(2) above.
  - (d) Stormwater management facilities other than in association with any of the uses related to Subsection A(1) and/or A(2) above.

B. Areas of steep slope (15% to 25%).

- (1) Permitted principal uses.
  - (a) Any principal use permitted in Subsection A(1).
- (2) Use permitted as conditional uses.
  - (a) Any uses identified in Subsection A(2) and the following:
    - [1] Stormwater management facilities.
    - [2] Sanitary sewers and sewage pumping stations.
    - [3] Accessory uses and structures customarily incidental to the foregoing.
- (3) Prohibited uses and activities.
  - (a) Cut and fill other than in association with any uses related to Subsection B(1) and/or B(2) above.
  - (b) Soil, rock or mineral extraction and/or removal other than in association with any uses related to Subsection B(1) and/or B(2) above.
  - (c) Removal of topsoil other than in association with any uses related to Subsection B(1) and/or B(2) above.

or B(2).

#### **D. Application procedure.**

- A. All applicants for any use of land within the Steep Slope Conservation District shall include the submission of the following materials and information:
- (1) Plans drawn to a scale of at least one inch equals 50 feet, sealed by a registered professional engineer, depicting the following:
    - (a) The location, dimensions and elevation of the property.
    - (b) Existing and proposed uses and development.
    - (c) Existing and proposed contours at two-foot intervals.
    - (d) The location and boundaries of steep slopes and very steep slopes as described in § 275-179C(5).
    - (e) Typical cross-sections and elevations of the property and proposed structures at intervals prescribed by the Township Engineer.
    - (f) Existing land cover characteristics of that portion of the property within the Steep Slope Conservation District indicating wooded areas, open areas and their ground cover type and any areas with impervious surfaces. The modifications proposed to the existing land cover shall also be indicated.
    - (g) Photographs showing existing uses, vegetation and topography of areas within the Steep Slope Conservation District.
    - (h) A report describing the slope, soil and vegetation characteristics of that portion of the property within the subject district. Such report shall also describe the proposed type and methods of proposed building construction, the type of foundation system(s) to be employed and proposals for landscaping, sewage disposal and water supply. Further, the report shall describe all sediment and erosion control measures to be used as required by Middletown Township, the Department of Environmental Protection and/or the Delaware County Conservation District, and any and all additional engineering and conservation techniques designed to alleviate environmental impacts which may be created by proposed development activities.

#### **E. Standards for approval of conditional uses.**

- A. In addition to the standards described in Article XXXVI pertaining to conditional uses, the Township Council shall consider the following:
- (1) The degree of modification, proposed within the district, to the topographic, soil and vegetation resources and the techniques proposed to mitigate potential adverse environmental impacts.
  - (2) The effect the development of the subject district would have on adjacent properties.
  - (3) The relationship of the proposed uses to the objectives described in § 275-177.
- B. Any use(s) or structure(s) approved as a conditional use shall provide evidence that:

- (1) The Steep Slope Conservation District is being proposed for development since no other alternative location is feasible or practical.
- (2) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation and unstable soil conditions.
- (3) Mitigation techniques will be utilized, including but not limited to retaining walls, tree wells, the establishment of ground covers and/or low spreading shrubs, the use of erosion control fabric and the like. Such techniques shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land development proposal.
- (4) Proposed buildings and structures will be of sound engineering design and footings will be designed in response to the site's slope, soil and bedrock characteristics. Such design shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land development proposal.

**ARTICLE XXI: SPECIAL PROVISIONS**

	R-1A	R-1	R-2	R-3	R-4	OR	C-1	C-2	C-3	I	SU-1A	SU-1	SU-2	M
<b>Adult (Entertainment) Uses</b>														CU
<b>Agriculture</b>	BR	BR	BR	CU	CU									
<b>Automotive Uses:</b>														
Gasoline service station								BR				BR	BR	BR
Convenience store w/ gas									CU		BR			
Car wash								BR						
Motor vehicle repair								BR	BR					BR
Car sales/rental								BR						
Junkyard														CU
<b>Bed and Breakfast</b>	CU													
<b>Billboards</b>								CU	CU				CU	
<b>Brewpub/ Microbrewery</b>														CU
<b>Cemetery</b>	CU									CU				
<b>Clubs</b>						BR					BR	CU	CU	
<b>Communications antennas/ Comm. Equip. Buildings</b>	CU	CU	CU	CU	CU	BR	CU		BR	CU	BR	BR	BR	BR
<b>Cultural, Religious, and Charitable Uses</b>	CU	CU	CU	CU	CU					BR	BR			
<b>Day Care Center</b>			CU		BR		BR	BR		BR	BR			
<b>Drive Through Services</b>									BR		BR	BR	BR	
<b>Educational Uses</b>	CU	CU	CU	CU	CU					BR		CU	CU	
<b>Forestry/Timber Harvesting</b>	BR	BR	BR	BR	BR									
<b>Governmental Uses</b>										BR	BR			BR
<b>Hotel or Motel</b>								CU	BR		BR	BR	BR	
<b>Medical Marijuana Dispensary</b>									CU					
<b>Medical Marijuana Grower/ Processor</b>														CU
<b>Mini Warehouse/ Self-Storage</b>											BR			BR
<b>Nursing Home, Personal care facilities, Continuing care facilities</b>			CU							BR	BR			
<b>Non-tower based communications facilities</b>						CU				CU	CU			CU
<b>Outdoor Dining (Acc.)</b>							BR	BR	BR		BR			
<b>Residential Group Homes</b>	CU	CU	CU	CU	CU									

<b>Restaurant</b>							BR	BR	BR		BR	BR	BR	
<b>Veterinary Clinic, Kennel, or Dog Daycare</b>								CU	BR					

CU- Conditional Use  
BR- By-Right

**§ 275-132. Adult (Entertainment) Use**

A. The following location standards shall be met:

1. Adult uses shall be located a minimum of one-thousand (1,000) feet from another existing adult use.
2. Adult uses shall be located a minimum of five-hundred (500) feet from any residential district or use, religious use, educational use, day-care use, playground, or park.

B. Signs and visible messages based on the allowable sign area for a business within the applicable zoning district per Article XXIII shall be permitted, provided:

1. Sign messages shall be limited to verbal description of materials or services and shall not include graphic or pictorial depiction of vulgar, obscene, or age-inappropriate language.

C. Adult uses shall require application for a conditional use approval. Application for such a conditional use approval shall consist of:

1. A description of the premises for which the approval is sought.
2. A statement of the intended use(s).
3. Hours of operation.
4. Type, size, and location of proposed sign(s).

D. Nothing in this Chapter shall be deemed to allow any uses that are "obscene," as that term has been interpreted from time to time by the courts of the United States or the Commonwealth of Pennsylvania.

E. There shall be no alcoholic beverages in association with adult uses without proper Commonwealth licensing and approval from the Pennsylvania Liquor Control Board.

**§ 275-133. Agriculture.**

A. General standards.

1. No manure storage shall be established any closer than 100 feet from any property line, or 300 feet of the boundary of any property used and/or zoned for residential purposes.
2. Any farm building (other than a pigsty) shall be situated not less than 200 feet from any public road nor less than 30 feet from any side or rear boundary line of the farm or lot. No pigsty shall be located within 300 feet of any property line.
3. The height of structures designed for agricultural use may be increased to a maximum of 65

feet, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement two feet of depth or width.

B. Secondary farm business. The sale and display of agricultural products shall comply with the following standards:

1. The sale of agricultural products shall only be permitted as an accessory use incidental to the principal agricultural use. A minimum of 50% of all agricultural products for sale shall be grown and produced on land owned or leased by the owner of the property on which they are being offered for sale.
2. Parking regulations, as established in Article XXII. Parking spaces shall be located outside the road right-of-way.
3. Sign regulations, as established in Article XXIII.
4. When the sale of agricultural products is conducted from a portable stand, the following conditions shall apply:
  - a. The portable stand shall be located a minimum of 25 feet from the edge of the cartway or outside of the right-of-way, whichever is greatest, and a minimum of 25 feet from adjacent property line.
  - b. The portable stand shall be removed at the end of the growing season.
5. Permanent buildings may be used for the sale of agricultural products if they comply with all applicable setback requirements of the district in which they are located and the applicable requirements of this section.

#### **§ 275-134. Automotive Uses.**

The following are specific physical requirements governing the granting of approval relating to automotive uses. When more than one of these uses are proposed, the standards shall be mutually inclusive, provided that the requirements for each use is met.

A. Gasoline service stations. Gasoline service stations shall be subject to the following:

1. A minimum lot frontage of 140 feet along one street, a lot depth of 150 feet and a minimum lot size of 35,000 square feet shall be provided.
2. All buildings shall be set back from all street rights-of-way by 40 feet; service islands shall be set back 50 feet from all street rights-of-way to allow for the width of a car on the street sideline.
3. All curb cuts for access driveways shall be not less than 25 feet nor more than 40 feet in width.
4. Except for access driveway openings, where the curb shall be depressed, a raised curb shall be provided along all street frontages.
5. All accessways and paved areas shall be constructed to Township road standards.

6. All permanently installed hydraulic hoists, pits and all lubricating, greasing, washing and repair equipment shall be entirely enclosed within the building.
7. All waste, used parts, and used tires shall be stored within a fenced area or building. Waste material and small used parts shall be stored in closed containers.
8. "No smoking" signs shall be posted in the service areas of the buildings and around gasoline pumps.
9. Noise from repairs and other operations shall not exceed 40 decibels when measured at the property line at any time.
10. Any environmentally safe method of disposal of waste oils and other pollutants shall be provided.
11. Except for accessways, the first 10 feet in depth along all street frontages shall be green area. Not less than 10% of the total lot shall be green area.
12. Fire-protection equipment shall be present at all times. Included shall be ten-pound BC extinguisher units, located as follows:
  - a. A minimum of one in each indoor service area.
  - b. At a maximum distance of 40 feet from all points within an indoor service area or an outdoor service island.
  - c. A minimum of two in the facility.
13. No repairs may be performed outside of a building.

B. Convenience store with gasoline service station.

1. A conditional use application is required subject to the provisions of §275-xxx for any convenience store in excess of 4,000 square feet of gross floor area with a gasoline service station.
2. All trash generated from a convenience store shall be stored in a completely fenced-in or screened enclosure. Trash bins shall be subject to setback regulations for the district where the lot is located.
3. Parking shall be provided as required by Article XXII.

C. Car wash establishments. Car wash establishments shall be subject to the following:

1. All provisions of Subsection A(2) through (6) and (9) through (12).
2. A minimum lot frontage of 150 feet along one street, a lot depth of 250 feet and a minimum lot size of 40,000 square feet.
3. Connecting to public water and public sanitary sewers.
4. A one-way traffic pattern on the property.

5. An ancillary accessway so that vehicles do not have to go through the washing facilities to reach the street exits.

D. Motor vehicle repair facilities. Motor vehicle repair facilities shall be subject to the following:

1. All provisions of Subsection A(3) through (13).
2. A minimum lot frontage of 100 feet along one street, a lot depth of 150 feet and a minimum lot size of 35,000 square feet, with a front yard setback of 50 feet.
3. There shall be no storage or parking of vehicles awaiting servicing or repairs on public streets.
4. Major repairs of vehicles involved in accidents, body repair, painting and correction of structural members shall be inside of a building or fenced area.

E. Car sales and rental facilities. Car sales and rental facilities shall be subject to the following:

1. All provisions of Subsection A(2) through (7) and (11) through (13).
2. A minimum lot frontage of 175 feet along one street, a lot depth of 200 feet and a minimum lot size of three acres.

F. Junkyard or Salvage yard.

1. A conditional use application is required subject to the provisions of §275-xxx for any junkyard or salvage yard.
2. Minimum lot size shall be as specified in the applicable district. The land area serving to meet the minimum lot size shall be undivided by streets, waterbodies, or rights-of-way. No part of the operation shall be located within a Flood Hazard District or such that contaminants from the operation can seep or flow into a waterbody.
3. The area where junk and any other material is stored outside shall be enclosed with a wall or fence, at least eight (8) feet in height, but no greater than ten (10) feet in height and which is designed and constructed so as to be at least one-hundred percent (100%) solid or opaque. Vegetative screening shall be provided outside of the fence consistent with the requirements of § 275-XXX.
4. Storage piles shall not exceed eight (8) feet in height within fifty (50) feet of the fence or wall line. Storage piles in the remaining areas shall not exceed ten (10) feet in height.
5. The portion of the tract serving as a junkyard shall be located on lands with less than fifteen percent (15%) slope.
6. There shall be provided at least a sixteen (16) foot wide access way throughout the use which shall be clear and free at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes. No more than two (2) adjoining rows of junked cars shall be stored together. There shall be accessways between storage piles which are adequate to provide safety and emergency access as well as to provide firebreaks, as determined by the Township in talking with the Fire Marshall. Waste generated by the junkyard operation shall be managed in accordance with all applicable Township ordinances and federal and state regulations, including the Solid Waste

Management Act, the Clean Streams Law, and the Air Pollution Control Act of the Commonwealth of Pennsylvania.

- a. Automotive fluids (including gasoline, oil, antifreeze, brake transmission fluids, and similar fluids), Freon and other flammable or toxic substances shall be removed from any items stored on the premises and shall be properly containerized and stored. Such materials shall not be released into the air or deposited on or into the groundwater or surface waterbodies and shall be transported and disposed of or recycled in accordance with applicable state and federal regulations.
  - b. Automotive batteries shall be removed from junked vehicles and properly stored until they are disposed of or recycled.
  - c. Removal of such fluids, batteries and other hazardous materials shall take place on an impervious surface where they can be properly contained without danger of spilling or being transported into the ground.
7. No material shall be burned on the premises. Each junkyard shall have available in proper working condition equipment that will control, contain, and suppress fires or other hazards.
  8. No garbage or other organic waste liable to give off a foul odor or to attract vermin or insects shall be kept on the premises.
  9. All junk, including tires, shall be stored or arranged to prevent accumulation of water. Outdoor storage shall be conducted to control mosquito propagation during warm weather. Controls may include use of tarps, indoor storage screens, or spraying.
  10. Prior to issuing of a Township zoning permit, the applicant shall provide sufficient information for the Township to determine that all applicable federal, state, county, and Township requirements and regulations can be met by the proposed operation. Prior to the issuance of the permit, the applicant shall also provide evidence that all applicable conditions set by the Township Council during the conditional use approval process have been met. This includes that additional standards may be required in order to assure the compatibility of the junkyard with properties in the vicinity of the junkyard.

### **§ 275-135. Bed and Breakfast.**

Bed and breakfast establishments shall be permitted by conditional use, subject to the following requirements:

- A. A bed-and-breakfast use shall be accessory to the primary use of the property as a single detached family dwelling with a minimum lot size of three (3) acres.
- B. A bed-and-breakfast use shall be permitted only within a single-family detached dwelling residence in the R-1A Residence District.
- C. The property where the bed-and-breakfast use is located shall be the principal residence of the owner/operator and shall be occupied by such owner/operator.
- D. The serving of meals shall be limited to breakfast and afternoon tea/snacks for overnight guests only. There shall not be separate cooking facilities in guest rooms. Eating facilities shall be open only to guests of the bed-and-breakfast.

- E. No items, services, or amenities, including swimming pools or tennis courts, shall be sold or offered for sale or use to the public as part of the bed-and-breakfast use. Such items, services, or amenities shall be for the sole use of the property residents and the bed-and-breakfast guests.
- F. Two off-street parking spaces for the property owners shall be provided and one additional off-street parking space for each guestroom of the bed and breakfast. Additional parking shall not be created that would result in any vehicles being parked on the property between the front facade of the dwelling and the street. Applicant shall show that parking is available that is not burdensome to the neighborhood.
- G. Signage shall meet Article XXIII.
- H. The use shall comply with provisions for the district wherein it is located. Bed-and-breakfast uses shall not cause or increase nonconformities.
- I. The adequacy of the sewage system to handle increased flows shall be certified by the Middletown Township Sewer Authority. Applicant shall provide proof to the Township the adequacy of water supply for the increased water usage.
- J. Proof of any required fire inspection by a fire company or recognized fire safety personnel shall be available at all times.
- K. A bed-and-breakfast use shall be required to obtain a Township home occupation permit annually.
- L. Exterior and interior alterations shall be limited to those customarily associated with residential uses unless required for safety or by the Township Building Code. Fire escapes, external stairways, or additional external doors shall be located either to the side or rear of the bed-and-breakfast building.
- M. The length of stay per guest shall be limited to seven (7) consecutive nights in a thirty (30) day period.

**§ 275-136. Billboards.**

A. Purposes of permitting billboards as conditional uses.

- 1. Purpose. It is the intent of this section to recite the purposes of permitting billboards as conditional uses in the SU-2 Special Use District and C-3 Regional Commercial District, subject to the area and bulk regulations and standards and criteria for approval of billboard conditional uses below and the general standards and criteria for approval of conditional uses in § 275-236.
- 2. The purposes of permitting billboards are:
  - a. To support the First Amendment rights of advertisers to promote legal products and services while retaining the sense of community and protecting the character of the Township.
  - b. To ensure that billboards are provided for in the Township and are located safely and appropriately where they can be viewed by the traveling public with the least distraction and degradation in driving performance.
  - c. To place reasonable limits on the size and total number of billboards within the

Township.

- d. To promote the quality, appearance and safety of billboards through the use of the latest digital technology.

B. Standards and criteria for approval of billboard conditional uses.

In addition to the standards and criteria for approval of conditional uses set forth in § 275-236, the following standards and criteria shall apply to a billboard conditional use:

1. No billboard shall be located within the safe clear sight distance or safe stopping distance of a signalized intersection, which distance shall be determined in accordance with applicable Pennsylvania Department of Transportation standards, and no part of a billboard shall interfere with or obstruct vehicle traffic, travel or ingress and egress to a public street.
2. All billboards shall be stationary and shall utilize digital technology to produce static images which may be changeable. Billboards shall not scroll, flash or twinkle, feature motion pictures, moving images or moving lights, or have mechanical or animated movement.
3. Only one advertisement, display or message may appear on a billboard face at any one time. When a billboard has two sides, each of the two sides of a billboard may contain a separate advertisement.
4. Changes from one advertisement, display or message to another may occur no more frequently than three times per side in any twenty-four-hour period and no more than one time per six-hour period, with transitions that do not have the effect of moving text images or lights.
5. Each face of a billboard shall be demonstrated to be oriented toward the road upon which the billboard fronts or faces to cause the least visual impact upon neighboring properties.
6. The billboard shall not be used to advertise, display or otherwise direct attention to a product, activity, message or business within the SU-2 Special Use District or C-3 Regional Commercial District wherein the billboard is located, except where the advertisement, display, attention or message is not for the local product, activity, message or business but is part of an off-site regional or national campaign or program.
7. All billboards shall be internally lit. No exterior lighting shall be permitted, except in connection with safety or maintenance and as approved by the Township. Illumination of billboard signs shall, at a minimum, follow the standards and requirements of the Illuminating Engineering Society of North America (IESNA) and shall be subject to review and approval by the Township.
8. Where billboards are visible from a residential district or use, the billboard shall be extinguished automatically by a form of programmable controller, with Eastern standard time and daylight saving time control and spring or battery outage reset, from 12:00 midnight until 5:00 a.m. on the following day.
9. Billboards shall be freestanding and self-supporting. No part or portion of a billboard shall be attached or connected to any other building or structure. All utilities serving the billboard shall be located below the ground.
10. Billboards shall be properly and adequately secured to prevent unauthorized access.

11. Billboards, including support structures, shall be properly and regularly maintained and shall at all times be kept in safe and operational manner.
12. There shall be no objects or other structures attached to a billboard or its support structure, except as may be necessary for the proper and safe operation and maintenance of the billboard.
13. A permanent means of vehicular ingress and egress to the billboard lot shall be provided.
14. It shall be the burden of an applicant wishing to construct a billboard to demonstrate compliance with the requirements of this section, as well as those of § 275-236.
15. The provisions of the Middletown Township Subdivision and Land Development Ordinance,<sup>4</sup> as amended, shall apply.
16. A bond, or other security acceptable to the Township, in form and amount satisfactory to the Township, shall be posted with the Township to ensure that the billboard will be properly removed upon termination of use for a period of one year.
17. Billboards shall require a building permit and related permits and shall be constructed in accordance with the applicable provisions of the Building Code of the Township of Middletown.
18. To the extent of any conflict between the provisions of this section and any other section of the Zoning Ordinance, the provisions of this section shall be controlling as to billboards.

C. Billboard area and bulk regulations.

The following area and bulk regulations shall govern the regulation of billboards:

1. The minimum lot size for a billboard shall be 20,000 square feet.
2. Only one billboard shall be permitted on any one lot. The lot shall be free from all other buildings, structures and improvements, except those required for the operation, maintenance and security of the billboard.
3. The maximum height of the highest point of the billboard, including its supporting structure, shall not exceed 35 feet.
4. The minimum lot width at both the street line and the front yard setback line shall be 100 feet.
5. The minimum setback from the street line shall be 35 feet, and the minimum setback from all other property lines shall be 25 feet.
6. Billboards shall have no more than two display faces, neither of which may exceed 150 square feet. The display faces shall be back-to-back and shall not be more than four feet apart.
7. No billboard shall be located closer than 500 feet to any other billboard, as measured between the closest points of each billboard, including the supporting structure.
8. No billboard shall be located closer than 500 feet to any residential district.

**§ 275-137. Brewpub or Microbrewery.**

- A. Brew pubs and microbreweries shall be permitted to sell all products and merchandise they are authorized to sell pursuant to their liquor license as well as food prepared on site, snack foods and other related merchandise.
- B. Maximum floor area of a building for retail sales and/or eating and drinking facilities shall be one-thousand five-hundred (1,500) square feet. Such floor area may include customer access and circulation, display of products including counters, tables, display cases, and similar purposes.
- C. Brew pubs and microbreweries shall comply with all parking requirements set forth in Article XXII for a restaurant.
- D. Brew pubs and microbreweries may have outdoor dining and seating at their facility if they meet the following criteria:
  - 1. An area which is on the sidewalk, patio or deck which directly abuts the restaurant, brewery pub or microbrewery building may be used for the purpose of furnishing food and beverages outside to the patrons of the restaurant.
  - 2. The outdoor dining area must meet the setbacks for the zoning district where the restaurant, brewery pub or microbrewery is located and must be separated from all parking areas, streets or driveways by a barrier which is at least four feet in height and no higher than six feet in height. The barrier must prevent patrons of the restaurant, brewery pub or microbrewery from exiting directly onto the parking area, street or driveway adjacent to the outdoor dining area and instead must require the patrons of the restaurant, brewery pub or microbrewery to exit the outdoor dining area in a safe manner, either onto a sidewalk or through another means of ingress and egress. The barrier may be a fence, wall, or another suitable barrier which will prevent a hazardous condition and protect the health and safety of the outdoor diners from vehicular traffic on adjacent parking areas, streets or driveways.
  - 3. Prior to serving food or beverages outdoors, the restaurant, brewery pub or microbrewery must obtain all necessary permits from all governmental and municipal agencies having jurisdiction, including but not limited to the Health Department and Liquor Control Board.
  - 4. The area used for outdoor dining shall only be used for dining and may not be used for outdoor entertainment or amplified sound.
- E. Brew pubs and microbreweries may provide tours of their facility to the public.
- F. No exterior display or sale of retail merchandise shall be permitted outside of the brew pub or microbrewery.
- G. Brewery pub and microbreweries shall obtain all requisite licenses from the Pennsylvania Liquor Control Board and the Middletown Township Health Department prior to operation.

**§ 275-138. Cemetery.**

- A. Area and Bulk.
  - 1. Minimum lot area: 10 acres.

2. Minimum lot width at building line: 400 feet.
  3. Minimum lot width at street line: 300 feet.
  4. Maximum total impervious surface area: 40%.
  5. Maximum building coverage: 20%.
  6. Minimum depth of each front and rear yard: 150 feet.
  7. Minimum width of each side yard: 75 feet.
- B. Individual plots shall be set back a minimum of 50 feet from all tract boundaries and public rights-of-way.
- C. No vault shall be located where, at its greatest depth below the ground surface, it may intrude upon the permanent or seasonal high-water table.
- D. Burial vaults shall be placed such that the minimum horizontal separation between vaults is no less than two feet in order to allow for infiltration of groundwater. This provision shall not apply to vaults within a mausoleum.
- E. Individual headstones greater than five feet in height and other aboveground permanent structures such as mausoleums shall require building permits prior to installation.
- F. Any cemetery proposed adjacent to a residential property, additional screening may be required as deemed appropriate by the Township Council.

**§ 275-139. Clubs.**

- A. The area and bulk standards for the underlying zoning district shall apply for any club.
- B. The use of the club facility shall be for authorized members and guests only.
- C. Club uses shall not include lodging of overnight guests or staff.
- D. Outdoor activity shall be setback a minimum of 100 feet from any residential use, district, or lot.
- E. Outdoor lighting shall comply with the provisions of § 275-XXX.
- F. Signage shall comply with the provisions of Article XXIII.
- G. When abutting a residential use or a property zoned for residential use, a buffer planting strip(s) shall be provided in accordance with the standards for the district in which the use is located. All buildings, parking and facilities for outdoor activities shall be screened.
- H. When located within or adjoining a residential use or a property zoned for residential use, the hours of operation shall be approved by the Township Council.

**§ 275-140. Communications antennas and communications equipment buildings.**

- A. Building-mounted communications antennas shall not be located on any single-family dwelling or two-family dwelling.
- B. Communications antennas mounted on lawfully existing buildings or structures, other than

communications towers, shall be permitted to exceed the height of said lawfully existing buildings or other structures by no more than 15 feet.

- C. Omnidirectional or whip communications antennas shall not exceed 20 feet in height and seven inches in diameter.
- D. Directional or panel communications antennas shall not exceed five feet in height and three feet in width, and a maximum of eight directional or panel communications antennas shall be permitted on any single building where communications antennas are permitted. This limitation on the maximum number of directional or panel communications antennas shall not be applicable to communications towers or water towers where communications antennas are permitted.
- E. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- F. Any applicant proposing communications antennas to be mounted on a building or other structure shall require a building permit and shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the building inspector for compliance with the Middletown Township's Building Code and other applicable law.
- G. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the communications antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- H. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- I. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Township.
- J. A communications equipment building shall be subject to the height and setback requirements of the applicable Zoning District and shall be screened by suitable evergreen landscaping from abutting properties and streets.
- K. All utilities and wiring for communications antennas and communications equipment buildings shall be located underground or within a building or other enclosure whenever possible.
- L. The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such communications antennas.

**§ 275-141. Standards for communications towers as conditional uses.**

- A. The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.

- B. The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- C. Communications towers shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation Regulations.
- D. Any applicant proposing construction of a new communications tower shall demonstrate that a good-faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure, or communications tower. A good-faith effort shall require that all owners of potentially suitable structures within a 1/4 mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
  - 1. The proposed antennas and related equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
  - 2. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure, and the interference cannot be prevented at a reasonable cost.
  - 3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - 4. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
  - 5. A commercially reasonable agreement could not be reached with the owners of such structures.
- E. Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 25 feet in width and shall be improved to a width of at least 12 feet with a dust-free, all-weather surface for its entire length.
- F. A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot, provided that the lot meets the size requirements for the Zoning District.
- G. Recording of a plat of land development shall be required for a lot on which a communications tower is proposed to be constructed.
- H. The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
- I. In all zoning districts where communications towers are permitted, the maximum height of any communications tower shall be 150 feet; provided, however, that such height may be increased to no more than 200 feet, provided that the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet.

- J. The foundation and base of any communications tower shall be set back from a property line a distance equal to the height of the communications tower.
- K. The base of a communications tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties and streets.
- L. The communications equipment building shall comply with the required yards and height requirements of the applicable zoning district.
- M. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Township's Building Code.
- N. The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$2,000,000 per occurrence covering the communications tower and communications antennas.
- O. All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- P. All utilities and wiring for communications towers shall be located underground or within a building or other enclosure whenever possible.
- Q. The site of a communications tower shall be secured by a fence with a minimum height of six feet to limit accessibility by the general public.
- R. No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- S. Communications towers shall be constructed, protected and maintained in accordance with the requirements of the Township's Building Code, as adopted and amended.
- T. If a communications tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within six months of the expiration of such twelve-month period.
- U. One off-street parking space shall be provided within the fenced area.

**§ 275-142. Cultural, religious, and charitable uses.**

- A. Area and Bulk:
  - 1. Minimum lot area: five acres.
  - 2. Minimum lot width at building line: 200 feet.
  - 3. Minimum lot width at street line: 150 feet.

4. Maximum total impervious surface area: 35%.
  5. Maximum building coverage: 15%.
  6. Minimum depth of each front and rear yard: 100 feet.
  7. Minimum width of each side yard: 50 feet.
- B. Permitted accessory uses include:
1. Day care center, by conditional use and per §275-XXX and Subsection E.
  2. Rectory, parsonage, or other lodging for minister, priest, rabbi, or other religious leader(s).
  3. Cemetery, per §275-XXX.
- C. Off-street parking facilities shall be a minimum of twenty-five (25) feet from the street right-of-way line and from side and rear property lines. Parking facilities shall be screened per §275-xxx, and additional screening may be required, if determined necessary by the Township.
- D. The applicant shall provide a traffic impact study that shall analyze traffic generation from the proposed use and its impact on the surrounding street system, and shall include an assessment and plan for the circulation of pedestrians and users within and about the tract.
- E. When church-related educational or day care facilities are included in the primary religious use, the following shall in addition apply:
1. The applicant shall include a plan for outdoor recreation, which shall include appropriate screening and buffering from adjacent residential properties.
  2. Student and child drop-off areas shall be designed to eliminate the need to cross traffic lanes within or adjacent to the site.
  3. The applicant shall provide a parking plan which demonstrates that the proposed parking facilities are sufficient for the intended uses.

**§ 275- 143. Day Care Center.**

- A. Area and Bulk.
1. Minimum lot area: 2 1/2 acres.
  2. Minimum lot width at building line: 200 feet.
  3. Minimum lot width at street line: 200 feet.
  4. Maximum total impervious surface area: 40%.
  5. Maximum total building coverage: 20%.
  6. Maximum building height: 35 feet.
  7. Minimum depth of front yard: 35 feet.

8. Minimum depth of rear yard: 35 feet.
  9. Minimum depth of side yard: 35 feet.
  10. Minimum aggregate of the side yards: 75 feet.
- B. All development shall be served by public sewer and public water.
  - C. All signage shall comply with Article XXIII.
  - D. Crosswalks shall be line-stripped across all streets at intersections or where sidewalks would otherwise extend across the street.
  - E. Lots, buildings, streets and related structures shall be organized in as compact an arrangement as possible to promote a form of development characteristic of a campus-like setting.
  - F. Buildings shall be designed with the gable end facing the street frontage(s).
  - G. Landscaping shall be an essential feature of any day-care facility. At least 60% of the lot area shall be landscaped. All landscaping shall comply with § 275-214.
  - H. The provision of day-care services shall be limited to infants through kindergarten, except during summer programs, in which case services may be extended to children through the third-grade level.
  - I. Playground areas shall be completely enclosed with fencing, walls, buildings or a combination thereof.
  - J. Parking shall be provided in accordance with requirements in off-street parking, Article XXII.
  - K. The use shall meet all licensing and certification requirements of state and other regulating agencies.
  - L. The applicant shall submit a report to describe compliance with the provisions of this article and other related ordinance requirements.

**§ 275- 144. Drive through services.**

- A. Unless otherwise noted in this chapter, area and bulk requirements for drive-through services shall be as specified for the use with which it is associated, including a restaurant, bank, or retail use as denoted in the underlying district.
- B. A drive-through service area shall not be adjacent to or facing a residential use, lot, or district.
- C. A drive-through service shall have a cartway with a dedicated area for conducting business, a vehicle stacking lane, and an area for departing vehicles. The stacking lane shall be clearly marked and shall not be shared with parking circulation aisles or traffic flow.
- D. All designated points of ingress and egress for all vehicles shall be designed to consider traffic volumes on existing streets and adjacent uses.
- E. When a drive-through service is adjacent to or on the same lot as other commercial uses, it

shall share a common accessway with the other uses and shall not have a separate entrance to the street.

- F. The drive through facility, including, but not limited to any menu board, teller windows, intercom, and the driveway, shall be located along the side or rear faces of the associated use.
- G. A pedestrian pathway shall be provided connecting any existing pedestrian access and the use for which the drive-through service is intended.
- H. If the drive-through service is for a restaurant, trash receptacles shall be provided outside for patron use with some located in a manner that drive-through service customers have access to the receptacles from a vehicle, however trash receptacles shall not be located within 40 feet of a residential use, lot, or district. A trash storage area shall be provided that is screened from the street and adjacent properties to create a visual barrier from the street and adjacent properties and to prevent trash from scattering or blowing away. All trash areas shall be located to permit safe and accessible trash removal.

## **§ 275- 145. Educational Uses.**

### **A. Elementary and Secondary schools.**

#### **1. Area and Bulk.**

- a. Minimum lot area: two acres.
- b. Minimum lot width at building line: 200 feet.
- c. Minimum lot width at street line: 150 feet.
- d. Maximum total impervious surface area: 35%.
- e. Maximum building coverage: 15%.
- f. Minimum depth of each front and rear yard: 100 feet.
- g. Minimum width of each side yard: 100 feet.

2. Outdoor recreation areas shall not be located within the front yard and must be set back a minimum of 25 feet from all lot lines. Off-street parking areas shall not be utilized as recreation areas, and shall be sufficiently screened to minimize disturbance of residential areas.

3. Except where separated by a minimum of 300 feet, outdoor recreation areas shall be screened from the view of adjacent residential uses, lots, or districts by means of a buffer planting strip.

4. Primary access shall be from an arterial or major collector road. When the use abuts other uses or lots, access shall be via a shared common accessway with those adjoining uses and lots so as to limit the number of street access point and potential vehicle and pedestrian movement conflicts.

5. All off-street parking facilities shall be in conformance with Article XXII and setback a minimum of 25 feet and screened from adjacent lots.

6. The use shall have a cartway for dedicated vehicle movement and automobile and school bus stacking lanes for student drop-off/pickup that is sufficient for the type of educational use being developed. Interior circulation planning shall take into account the unique situation of an educational setting, including pedestrian, bicycle, and vehicle movements and automobile and school bus drop-off/pickup, waiting, and stacking areas. Stacking lanes and waiting areas shall be clearly marked and shall not be shared with parking circulation aisles or traffic flow or pedestrian circulation areas.
7. For any proposed educational use with an enrollment of 50 or more students, the applicant shall provide a traffic impact study. The traffic impact study shall analyze the traffic generation from the proposed use/development and its potential impact on the surrounding road system. An assessment and plan for the circulation of pedestrians and users within and near the proposed use and lot shall be included. Enrollment, for the purposes of this section, shall be defined as the largest number of students on the site at any one time during a seven-day time period.
8. The applicant shall demonstrate that all necessary approvals and permits from state and local agencies have been obtained.
9. These standards shall not apply to university facilities or homeschooling in accordance with Pennsylvania Department of Education standards.

**§ 275-146. Forestry/ Timber harvesting. Township Engineer Review Check for legality/case law**

The following regulations shall apply to all forestry, timber harvesting, tree harvesting and logging operations in the Township.

- A. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the public road.
- B. No tops or slash shall be left within 25 feet of any public road.
- C. All tops and slash between 25 feet and 50 feet from a public road or private road providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped to a maximum height of four feet above the surface of the ground.
- D. No tops or slash shall be left on or across the boundary of any property adjoining the operation.
- E. Litter resulting from the forestry, timber harvesting, tree harvesting or logging operation shall be removed from the property at least once a week.
- F. All holes created in the course of any tree harvesting operation shall be filled to grade with soil.
- G. The total number of trees harvested over any three-year period may not exceed 65% of the total basal area per acre in interior areas other than those described in Subsection (H) below.

H. In areas within 50 feet of lot boundaries, the total number of trees harvested over any three-year period may not exceed 40% of the total basal area per acre in such area. Moreover, harvesting in these boundary areas may not be undertaken in such a manner as to concentrate most or all of the tree harvesting in portions of such boundary areas, if the result thereof would be the harvesting of more than 40% of the trees in such portions.

**§ 275-147. Governmental Uses.**

A. Area and Bulk.

1. Minimum lot area: two acres.
2. Minimum lot width at building line: 200 feet.
3. Minimum lot width at street line: 150 feet.
4. Maximum total impervious surface area: 35%.
5. Maximum building coverage: 15%.
6. Minimum depth of each front and rear yard: 100 feet.
7. Minimum width of each side yard: 100 feet.

**§ 275-148. Hotel or Motel.**

A. Area and bulk.

1. Lot area: Three (3) acre minimum.
2. Lot width at the street line/building line: Three hundred (300) feet minimum.
3. Building coverage: Twenty-five percent (25%) maximum.
4. Maximum impervious surface: sixty percent (60%).
5. Front and Rear yard setback: Seventy-five (75) feet minimum.
6. Side and rear yards: Seventy-five (75) feet minimum abutting residential districts and fifty (50) feet minimum abutting nonresidential districts.
7. Maximum building height: forty-five (45) feet.

B. Any hotel/motel use shall be served by public water supply and sewer system.

C. Permitted accessory uses for hotels/motels include:

1. Eating and drinking establishments.
2. Indoor fitness facilities and/or swimming pools.
3. Meeting space utilized for conferences, conventions, banquets, receptions, and similar events.

4. Accessory uses except for eating and drinking establishments and meeting/conference/convention/banquet/reception facilities shall only be for the use of guests of the Hotel/Motel.

**§ 275-149. Medical Marijuana Dispensary.**

- A. A medical marijuana dispensary shall provide proof of registration with the Pennsylvania Department of Health or proof that registration has been sought and is pending approval, and shall maintain a valid, accurate, and up-to-date registration with such. Should registration be denied or revoked at any time, the use shall immediately become void. This includes any approvals granted by special exception or conditional use. A medical marijuana dispensary shall at all times operate in compliance with all Pennsylvania Department of Health regulations pertaining to such facilities.
- B. A medical marijuana dispensary use shall not be operated or maintained on a parcel within 1,000 feet of the nearest point on the property line of a residentially zoned property or a parcel containing public, private, or parochial school or day-care center.
- C. A medical marijuana dispensary may not operate on the same site as a medical marijuana grower/processor.
- D. The site or the facility shall provide adequate policing to prevent the sale of medical marijuana products other than for state-licensed medical purposes.
- E. No more than one dispensary shall be permitted on any one site or in any one building.
- F. No use of medical marijuana shall be permitted on the premises of a medical marijuana dispensary.
- G. A medical marijuana dispensary must operate entirely within an indoor, enclosed, and secure facility. No exterior sales, and no sidewalk displays shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- H. A medical marijuana facility shall be limited to hours of operation not earlier than 9:00 a.m. and not later than 9:00 p.m.
- I. A medical marijuana dispensary shall submit a disposal plan to, and obtain approval from the Township Code Enforcement Officer or designee. Medical marijuana remnants and by-products shall be disposed of according to an approved plan.
- J. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the medical marijuana dispensary is operating.
- K. No one under the age of eighteen (18) years shall be permitted in a medical marijuana dispensary, unless accompanied by a caregiver as required under Section 506 of the Pennsylvania Medical Marijuana Act.
- L. No use of medical marijuana shall be permitted on premises of a medical marijuana dispensary.

**§ 275-150. Medical Marijuana Grower/Processor.**

- A. A medical marijuana grower/processor shall provide proof of registration with the Pennsylvania Department of Health or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be denied or revoked at any time, any conditional use or special exception shall immediately become void.
- B. A medical marijuana grower/processor shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- C. No more than one grower/processor shall be permitted on any one site or in any one building.
- D. The site or facility shall provide adequate policing to prevent the unintended transfer of marijuana plants off the premises.
- E. Off-street parking shall be provided in accordance with the requirements for industrial and other related uses, as contained in Article XXII.
- F. A medical marijuana grower/processor use shall not be operated or maintain in a parcel within 1,000 feet of the nearest point of the property line of a residentially zoned property or parcel containing a public, private, or parochial school or day-care center.
- G. A medical marijuana grower/processor must operate entirely within an indoor, enclosed, and secure facility.
- H. A medical marijuana grower/processor may not operate on the same site as a medical marijuana dispensary.
- I. A medical marijuana grower/processor shall submit a disposal plan to, and obtain approval from the Township Code Enforcement Officer or his or her designee. Medical marijuana remnants and bi-products shall be disposed of according to an approved plan.
- J. There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line for the property where the medical marijuana grower/processor is operating.
- K. No retail sales of medical marijuana shall be permitted on the premises of a medical marijuana grower/processor.
- L. No use of medical marijuana shall be permitted on the premises of a medical marijuana grower/processor.

**§ 275 -151. Miniwarehouse/ self-storage.**

- A. The minimum tract area shall be as specified in the applicable district.
- B. The minimum aisle width between buildings shall be twenty (20) feet.
- C. Storage of explosive, radioactive, toxic, highly flammable, or otherwise hazardous materials shall be prohibited.
- D. No business activity other than leasing of storage units and the sale of packing materials incidental to the principal use shall be conducted on the premises.

- E. Except as allowed in Subsection G., all storage shall be within enclosed buildings built of durable materials on a permanent foundation. Trailers, box cars, or similar impermanent or movable structures shall not be used for storage under this use.
- F. Outdoor storage areas for this use shall comply with the following requirements:
  - 1. Outdoor storage of up to five (5) U-Haul vehicles is permitted at any time, provided they are screened so as not to be visible from adjacent streets, residential uses, or residential districts, and are located in designated areas.
  - 2. Twenty percent (20%) of the total complex site area may be used for such outdoor storage.
  - 3. Stored vehicles shall not interfere with traffic movement through the complex.
- G. The complex shall be surrounded by a security fence and landscaped screening.
- H. This use shall not be located within a Flood Hazard District.

**§ 275 -152. Personal Care facilities.**

- A. Personal care facilities.
  - 1. Personal-care facilities area and bulk requirements.
    - a. Minimum lot area: 3 acres.
    - b. Minimum lot width at building line: 200 feet.
    - c. Minimum lot width at street line: 200 feet.
    - d. Maximum total impervious surface area: 40%.
    - e. Maximum total building coverage: 20%.
    - f. Minimum depth of each front yard: 35 feet.
    - g. Minimum rear yard setback: 35 feet.
    - h. Minimum side yard setback: 35 feet.
    - i. Minimum aggregate of side yards: 75 feet.
  - 2. Personal-care facility regulations.
    - a. The proposed development must conform to all standards and criteria for conditional uses in Article XXXVI and all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.
    - b. All development shall be served by public sewer and public water.
    - c. No more than 35 beds per acre of lot area shall be provided.
    - d. All signage shall comply with Article XXIII. However, all signage shall be 1/3 smaller than the sizes set forth in Article XXIII.

- e. Crosswalks shall be line-stripped across all streets at intersections or where sidewalks would otherwise extend across the street.
- f. Lots, buildings, streets and related structures shall be organized in as compact an arrangement as possible to promote a form of development characteristic of a campus-like setting.
- g. Buildings shall be designed with the gable end facing the street frontage(s).
- h. Landscaping shall be an essential feature of any personal-care facility. At least 60% of the lot area shall be landscaped. All landscaping shall comply with § 275-214.
- i. Bus stop shelters, benches and other pedestrian amenities shall be provided.
- j. Other vertical infrastructure in the form of such elements as hedges, fences, walls, pergolas, gazebos, pavilions and the like are encouraged to add human scale and amenity.
- k. Parking shall be provided at the rate of 1/2 off-street parking space for each bed, plus one for each employee on the shift of greatest employment.
- l. All development shall be shown on a sketch plan to be submitted before any preliminary plan is filed. The sketch plan shall depict compliance with this article and other related ordinance requirements.
- m. The use shall meet all licensing and certification requirements of state and other regulating agencies.
- n. The applicant shall submit a report to describe compliance with the provisions of this article and other related ordinance requirements.
- o. Notwithstanding § 275-200, the maximum height of a fence constructed and used in connection with a personal care facility shall be eight feet.

**§ 275 -153. Outdoor Dining.**

The following general and supplemental regulations shall be observed in all districts providing for seasonal outdoor dining in conjunction with a licensed, permitted restaurant.

- A. Outdoor dining areas that are entirely located upon the private property of the restaurant shall be subject to the following regulations:
  - 1. No outdoor food preparation or storage, busing station or open outdoor trash receptacle shall be permitted.
  - 2. The dining area shall not obstruct the use of any egress door or aisle, access lane or standpipe.
  - 3. Outdoor dining is permitted between the hours of 7:00 a.m. and 11:00 p.m., except where the restaurant adjoins a residential use, in which case outdoor dining is permitted between the hours of 7:00 a.m. and 9:00 p.m.
  - 4. Outdoor sound amplification systems are prohibited.

5. The outdoor dining area shall be subject to all Health Code provisions of the Township.
6. Alcoholic beverage service, properly licensed by the Commonwealth of Pennsylvania, is permitted only in conjunction with the service of food.
7. No service of food or beverages is permitted to unseated patrons.
8. Portable heating devices with an open flame are prohibited.
9. The outdoor dining area shall be set back a minimum of 50 feet from any Residential Zoning District.
10. Outdoor dining is permitted from April 1 to October 31 only.

#### **§ 275-154. Residential Group Homes.**

- A. Purpose. The purpose of this section is to authorize residential group homes in residentially zoned districts within the Township as a conditional use subject to certain standards and requirements necessary to protect and maintain the residential character of neighborhoods, provide for effective use and regulation of utilities, emergency and other Township services, and ensure that appropriate county, state and federal requirements have been met.
- B. Conditional use. Residential group homes, as defined in Article II, are authorized in all residential zoning districts as a conditional use subject to the standard application procedures for conditional uses set forth in § 275-37, subject to standards and criteria for approval of residential group homes set forth § 275-216.5C, herein and the general standards and criteria for approval of conditional uses in § 275-236.
- C. Standards. Prior to occupying a property in connection with a residential group home (as used sometimes herein, "home"), the owner of the property or operator of the home shall demonstrate or otherwise be subject to the following:
  1. The lot upon which the residential group home is situated shall meet the minimum bulk and area requirements established in the zoning district for which the home is to be located. The residential group home shall not be maintained in an accessory building or unit.
  2. Residential group homes shall be used and maintained as a single housekeeping unit with shared use of living areas, eating areas, bathrooms, and food preparation, and serving areas.
  3. The maximum number of residents in the residential group home shall not exceed the number of occupants or residents permitted by the applicable Township Building Codes or other state and federal regulations applicable to such homes. Sewage disposal and water supply facilities shall be sufficient to handle the anticipated loading created by the number of proposed residents and shall meet all requirements of the Pennsylvania Department of Environmental Protection and/or applicable requirements of the Middletown Township Sewer Authority.
  4. Residential group homes shall, to the extent practicable, conform to the type and outward appearance of the residences in the area in which they are located. This provision shall in no way restrict the installation of any ramp or other special features required to serve residents of the home.

5. No signage other than that authorized under § 275-XXX shall be permitted, except as otherwise required by law.
6. In order to ensure the integration of the residential group home into a neighborhood and to ensure proper use, availability and regulation of emergency and other Township services, a residential group home shall be located no closer than 1,000 feet to another residential group home, measured on a straight-line radius from the property line so used, to the property to be used.
7. Off-street parking must be adequate to accommodate the needs of the residents and staff. At a minimum, the residential group home must meet the minimum requirements for the zoning district in which it is located.
8. Notwithstanding any provision of the Township Building Code, the residential group home must maintain an automatic sprinkler system.
9. The residential group home shall obtain any and all permits or licenses required by county, state, or federal agencies prior to commencing occupancy of the home.
10. The residential group home shall provide the Township, in writing, the following prior to commencing occupancy of the home: the location of the home, the individual(s) responsible for operation or maintenance of the home and/or appropriate emergency contact personnel and a summary of the specialized treatment/care provided to the residents of the home as may be necessary to aid Township emergency service personnel in the event of an emergency. The owner of the property or operator of the home shall update the information required herein within five business days of any change thereof.

#### **§ 275-155. Veterinary Clinic, Kennel, or Dog Day Care.**

All veterinary clinics shall be in accordance with the following:

- A. The operator of any veterinary clinic shall provide proof of all requisite permits, licenses, and certification to perform medical procedures and for the care and keeping of animals.
- B. The operator shall ensure sanitary conditions are in conformance with appropriate health authorities and shall be maintained at all times.
- C. A use is considered a kennel when it contains (6) or more dogs, cats, or other domestic animals, or a combination thereof. All kennel buildings shall be sound insulated such that no animal noise is audible beyond the lot line. Veterinary clinics can include facilities for overnight care, which is not considered the same as a kennel or boarding.
- D. Exercise areas are permitted on the side or rear yard, shall be within a secure enclosure, and shall be completely screened from adjacent roads and residentially zoned properties. Exercise areas shall be setback at least fifty (50) feet from all lot lines, seventy-five (75) feet from residentially zoned properties, one hundred and twenty-five (125) feet from wells, springs, sinkholes, ponds or streams, and shall not be within any swale or drainageway.
- E. The sale of related products shall remain accessory and shall occupy no more than twenty-five percent (25%) of the floor area of the principal building.
- F. Except within permitted exercise areas, any animal outdoors must be accompanied by

either its owner or an employee of the facility and must be leashed or contained in a secure enclosure.

- G. Except for as needed bathroom walks, all animals are to be confined to a sound proof and odor proof building that is completely closed and climate controlled between the hours of 8:00 p.m. and 7:00 a.m.
- H. Any kennel or pet day care facility shall be licensed as a boarding kennel in accordance with the Pennsylvania Dog Law, and the operator/owner shall abide by all relevant provisions in such law.

## **§ 275 -156. Wireless Communications Facilities**

### **A. General requirements.**

The following regulations shall apply to all non-tower wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached:

1. Permitted in all zones subject to regulations. Non-tower WCFs are permitted in all zoning districts subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
2. Prohibited on certain structures. Non-tower WCFs shall not be located on single-family detached residences, multifamily dwellings, single-family attached residences, or any accessory residential structures.
3. Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, inspected, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the safety of any person or any property in the Township.
4. Related equipment. Ground-mounted related equipment greater than three cubic feet shall not be located within 50 feet of a lot which is in residential use or is zoned residential.
5. Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according 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/EIA-222-E Code, as amended).
6. Public safety communications. No non-tower WCF shall interfere in any way with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
7. Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
8. Radio frequency emissions. No non-tower WCF may, by itself or in conjunction with

other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

9. Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use is intended to be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - a. All abandoned or unused WCFs and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved in writing by the Township.
  - b. If the WCF or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved in writing by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
10. Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 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 applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time between the request and the date the material is produced shall be excluded in calculating the Township's ninety-day review period.
11. 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 non-tower WCF.
12. Insurance. Each person that owns or operates a non-tower WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the non-tower WCF. The Township shall be named as an additional insured on the certificate of insurance.
13. Indemnification. Each person that owns or operates a non-tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of but not limited to, the construction, installation, operation, maintenance or removal of the non-tower WCF. Each person that owns or operates a non-tower WCF shall defend, at his, her, its own expense, any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a non-tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all

other costs of indemnification.

- B. The following regulations shall apply to all non-tower wireless communications facilities that substantially change the wireless support structure to which they are attached:
1. Permitted in all zones subject to regulations. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
  2. Prohibited on certain structures. Non-tower WCFs shall not be located on single-family detached residences, multifamily dwellings, single-family attached residences, or any residential accessory structures.
  3. Permit required. Any applicant proposing the construction of a new non-tower WCF, or the modification of an existing non-tower WCF, shall first obtain a commercial building permit from the Township office. New construction and modifications shall be prohibited without a permit. After receipt of the commercial building application, the Township Zoning Officer shall determine whether zoning relief.
  4. Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
  5. Any non-tower WCF structures shall be designed to withstand the effects of wind according 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/EIA-222-E Code, as amended).
  6. Public safety communications. No non-tower WCF shall interfere in any way with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
  7. Historic buildings. No non-tower WCF may be located on or near a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures list maintained by the Township.
  8. Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
  9. Maintenance. The following maintenance requirements shall apply:
    - a. The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
    - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.

- c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
10. Radio frequency emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
11. Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use is intended to be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - a. All abandoned or unused WCFs and accessory facilities shall be removed within one month of the cessation of operations at the site unless a time extension is approved by the Township in writing.
  - b. If the WCF or accessory facility is not removed within one month of the cessation of operations at a site, or within any longer period approved by the Township in writing, the WCF and/or associated facilities and equipment may be removed by the Township and the Township's cost plus 15% overhead, of removal assessed against the owner of the WCF.
12. Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 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 applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time between the request and the date the material is produced shall be excluded in calculating the ninety-day review period.
13. Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this article. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
14. Bond. Prior to the issuance of a permit, the owner of a non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in the amount of \$35,000 to assure the faithful performance of the terms and conditions of this article. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages as well as expert fees, counsel fees and costs, incurred by the Township for violations of this article, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.
15. 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 non-tower WCF, as well as related inspection, monitoring and related costs.

C. Non-tower wireless facilities outside rights-of-way.

1. The following additional regulations shall apply to non-tower wireless communications facilities located outside the rights-of-way that substantially change the wireless support structure to which they are attached:

a. Development regulations. Non-tower WCFs may be co-located on existing structures, such as existing buildings or tower-based WCFs subject to the following conditions:

- i. Such WCF may not exceed the lesser of a total maximum height of 50 feet or the maximum height permitted in the underlying zoning district.
- ii. If the WCF applicant proposes to locate the related equipment in a separate building, the building shall comply with the accessory building and structure requirements of the applicable zoning district.
- iii. An eight-foot-high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for any existing principal use.

b. Design regulations.

- i. Non-tower WCFs shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- ii. Non-tower WCFs which are mounted to a building or similar structure may not exceed a height of 10 feet above the roof or parapet, whichever is higher, unless the WCF applicant is granted conditional use approval after a hearing.
- iii. The total height of any support structure and mounted WCF shall not, under any circumstance, exceed the maximum height permitted in the underlying zoning district.
- iv. All non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- v. Antennae, and their respective accompanying support structures, shall be no greater in diameter than is reasonably necessary for their proper functioning.
- vi. Non-commercial usage exemption. Township citizens utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or Internet connections at their respective residences shall be exempt from the design regulations enumerated in this Subsection.

c. Removal, replacement, modification.

- i. The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.
  - ii. Any material modification to a wireless telecommunication facility shall require a new permit application and approval.
- d. Visual or land use impact. The Township reserves the right to deny an application for the construction or placement of any non-tower WCF based upon any adverse visual and/or land use impact.
- e. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this article and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- D. Non-tower wireless facilities in rights-of-way. The following additional regulations shall apply to all non-tower wireless communications facilities located in the rights-of-way:
1. Co-location. Non-tower-based WCFs in the ROW shall be co-located on existing structures, such as existing utility poles or light poles.
  2. Design requirements:
    - a. WCF 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 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. Applicant shall demonstrate to the satisfaction of the Township that components are the smallest, least obtrusive with parts consistent with best engineering practices.
    - b. Antennae and all supporting equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
  3. Reimbursement for ROW use. In addition to permit fees as described above, every non-tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation 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 reviews, inspections, permitting, supervision and other ROW management activities by the Township. The owner of each non-tower WCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Township at its first public meeting each January and authorized by resolution of Township Board and shall be based on the Township's actual ROW management costs as applied to such non-tower WCF.
  4. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs 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.

5. Equipment location. Non-tower-based WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, adversely affect the visual aesthetics of the surrounding community 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:
  - a. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb, edge of pavement or outside edge of sidewalk or within an easement extending onto a privately-owned lot;
  - b. Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - d. Any graffiti on any equipment or accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti. If the owner does not remove the graffiti after 10 days, the Township may do so and recover its expenses, plus 15% overhead, from the owner.
  - e. Any underground vaults related to non-tower WCFs shall be reviewed and approved by the Township.
6. Relocation or removal of facilities. Within 60 days 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 a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF 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:
  - a. The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
  - b. The operations of the Township or other governmental entity in the right-of-way;
  - c. Vacation of a street or road or the release of a utility easement; or
  - d. An emergency as determined by the Township.
  - e. Visual or land use impact. The Township retains the right to deny an application for the construction or placement of a non-tower WCF based upon any adverse visual and/or land use impact.

E. Violations and penalties.

1. Penalties. Any person violating any provision of this article shall be subject, upon a finding by a Magisterial District Judge, to a penalty not exceeding \$500, for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur after notice. In addition to an action to enforce any penalty imposed by this article and any other remedy at law or in equity available to the Township, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this article.
  2. Determination of violation. In the event a determination is made that a person has violated any provision of this article, such person shall be provided written notice of the determination of violation and the reasons therefor. Except in the case of an emergency, the person shall have 30 days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this article and/or federal and/or Pennsylvania law and regulations.
- F. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.

## ARTICLE XXII: OFF-STREET PARKING

### § 275-157. Required off-street parking spaces.

- A. Unless specified otherwise in another article of this chapter, all off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building or use which, after the effective date of this chapter, is established, erected, enlarged or altered for any of the following purposes or uses in any district. For uses not specifically listed, the requirements for the most similar use listed shall be followed:

<b>Use</b>	<b>Off-Street Parking Space Required</b>
<b>Agricultural Uses</b>	
Agriculture	1 for each full-time employee
<b>Residential Uses</b>	
Apartments with 3 or more bedrooms	2 for every dwelling unit, plus 1 space for every 5 units for multi-unit structures and townhomes.
Other dwelling units	2 for every dwelling unit
Home professional offices and home occupations	2 in addition to the spaces for the dwelling unit, plus 1 for every 100 square feet of space used for the office
<b>Recreational Uses</b>	
Private clubs, lodges	1 for every 100 square feet of floor area available to patrons
Golf course	5 for each hole plus club requirement as listed above
Golf driving range	2 for each tee
Miniature golf	1 for each hole
Bowling alley	5 for each lane
Gymnasium, stadium	1 for every 4 seats
Public swimming pool	1 for every 12 square feet of water surface or 1 for every 5 persons for whom dressing facilities are provided (whichever is greater)
Outdoor commercial recreation	1 for every 1,500 square feet of area
Indoor commercial recreation	1 for every 150 square feet of gross floor area devoted to such use
<b>Governmental, Institutional and Educational Uses</b>	
Places of public or private assembly including churches, auditoriums, theatres and assembly halls	1 for every 4 permanent or temporary seats plus 1 for every 100 square feet of meeting room area (where the capacity is not determined by the number of fixed seats, 1 for every 60 square feet of floor area devoted to seating area)

Club, lodge	1 for every 50 square feet of assembly area or 1 for every 5 persons of total capacity (whichever is greater)
Community center, library, museum	1 for every 250 square feet of floor area in public use
Hospital, healthcare/ rehabilitation facility	1 for each bed plus 1 for each employee on the shift of greatest employment;
Continuing care facility	1 space per dwelling unit plus 1 space for every 2 employees anticipated at the largest shift for all nonresidential uses
Personal care facility	1 space for each 3 living units, plus 1 space for each employee on the shift of greatest employment
Private kindergarten or child institutional home	1 for each adult attendant plus 1 for every 500 square feet of gross floor area
Elementary and secondary schools	2 spaces per 1,000 square feet of classroom area, plus 12 per 1,000 square feet of assembly room area.
Nursery school or daycare center	1 space per 600 square feet of gross floor area
Postsecondary schools and campus facilities	2 spaces per 1,000 sq. ft. of classroom area, plus 1 space per each campus residential accommodation.
<b>Retail, Commercial and Other Business Uses</b>	
Retail store, shop or personal service establishment (not a part of a shopping center)	1 for every 100 square feet of gross sales floor area or area serving customers
Department store, supermarket, or warehouse membership club	1 for every 75 square feet of store sales floor area or other area serving customers
Personal service businesses such as barber shops, photo shops, tailor, beautician, shoe repair and the like	1 for every 100 square feet of gross floor area or area serving customers
Restaurant, cafeteria, tavern or café	1 for every 50 square of floor space devoted to patron use, plus 1 for each employee on the maximum shift
Fast food restaurant with drive through service	1 per every 75 feet of gross floor plan area
Self-service laundromat	1 for every 50 square feet of gross floor area
New and used automobile sales and service agency	1 for every 200 square feet of floor and ground area devoted to sales, service and repair, plus 1 for each employee (parking within a building may be used to meet this requirement)
Banks, credit unions and the like	1 for every 75 square feet of floor area for serving customers
Medical or dental offices and clinics	6 for each practitioner (6.5 per each 100 sq ft of examination area)

Funeral home	1 for every 4 seats for patron use or 1 for every 50 square feet of gross floor area, whichever is greater
Professional offices and businesses:	
Office building having less than 100,000 square feet of gross floor area	1 for every 200 square feet of gross floor area
Office building having 100,000 square feet or more of gross floor area	1 for every 250 square feet of gross floor area
Shopping center	4 for every 1,000 square feet of gross leasable areas for centers having a gross leasable area from <b>25,000 to 400,000 square feet</b> ;  4 1/4 for every 1,000 square feet of gross leasable area for centers having a gross leasable area <b>greater than 400,000 square feet</b>
Movie theatre	1 for every 4 seats plus 1 for every employee on the shift of greatest employment
Hotel, motel or inn	1.2 for each rental room or suite plus 1 for every 3 seats in restaurants or meeting rooms
Temporary places where Christmas trees, flowers, produce or other goods are sold	10 minimum, plus any additional spaces as determined by the Code Enforcement Officer after personally observing traffic conditions at such locations
Industrial and other related uses	1 for each employee on the shift of greatest employment, or 1 for every 1,000 square feet of gross floor area (whichever is greater), plus 1 for each company vehicle
Convenience store	One for every 100 square feet of net floor area of the building(s) on the lot, and one for each fueling position used for the dispensing of automotive fuel, plus one space for each employee on the largest shift
Car wash, automated	6 spaces, plus 6 dry-off spaces, plus 10 stacking spaces.
Mini-warehouse/self-storage	Minimum of 5 spaces for the office OR 1 space per 10,000 sq ft of GFA
Gasoline service station	1 per pump island, plus 6 stacking spaces for each pump island.
Automobile service and repair	4 for each bay, or 1 every 200 square feet of floor and ground area devoted to service and repair (whichever is greater), plus 1 for each employee
Vehicular sales and service center	1 space per 200 square feet of floor area devoted to sales, excluding the area where the merchandise is parked or stored, plus 1 space for each service stall in the service department

Marijuana dispensary	1 parking space per 100 square feet of gross floor area.
Conference center	12 spaces per 1,000 square feet of gross floor area in the main assembly room.
Commercial greenhouse or garden center	1 space per 200 square feet of floor area devoted to sales
Bed and breakfast	1 space per guest room in addition to the required number for the residence
Research or testing facilities	1 for each 1,000 square feet of gross floor area.

B. Buildings or uses other than those specified above.

- (1) Determination of the appropriate parking space requirements shall be made by the Township Council consistent with the standards set forth herein for comparable buildings or uses.

**§ 275-158. General regulations for off-street parking.**

- A. Existing parking. Structures and uses in existence at the date of adoption of this chapter shall not be subject to the requirements of this article, provided that the type or extent of use is not changed, and further provided that off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than required under this chapter for a similar new building or new use.
- B. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.
- C. Changes in use. Whenever a structure is altered or a use is changed or extended which increases its parking requirements, then the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of § 275-182.
- D. Conflict with other uses. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- E. Continuing character of obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent except when such reduction is in conformity with the requirements of this article.
- F. Location of parking spaces. Required off-street parking spaces shall be on the same lot or premises with the principal use served. However, in all cases where it is sought to utilize adjacent premises for parking facilities, the applicant or owner shall be required to enter into an appropriate agreement, duly acknowledged, for recording, reciting that the property upon which aforesaid establishment is erected and the said adjacent premises are both owned by the applicant; that they are to be used with relation to each other, as above provided; and that neither property shall be separately sold or encumbered, unless other provisions for compliance with this chapter have first been entered into in writing and fully approved by the Township Council.
- G. Fractional spaces. Where the computation of required parking spaces results in a fractional number, the fraction of 1/2 or more shall be counted as one.

- H. Maintenance of parking areas. All parking areas, loading areas, and driveways shall be graded and

surfaced with asphalt or other suitable materials to prevent dust and erosion. Such areas shall also be drained in conformance with municipal standards to prevent excessive water flow onto streets or adjoining properties. All parking spaces and parking areas shall be clearly line striped and maintained.

- I. Lighting. All artificial lighting used to illuminate any parking area shall be arranged to prevent glare on adjoining properties.
- J. ADA Accessible parking. All uses shall designate reserved ADA compliant parking spaces as close as possible to the main entrance of the building with the exception of single-family or twin dwellings, service stations, garages, cemeteries or any other use for which 10 or fewer parking spaces are required under this chapter. Said spaces shall be considered as part of the required spaces and shall be appropriately signed as accessible parking spaces.
- K. Electric vehicle charging stations.
  1. Electric vehicle charging stations may utilize existing, on-site parking spaces only after the applicant demonstrates to the satisfaction of the Zoning Officer their designation will not result in the use failing to have the required number of parking spaces for the use as required under § 275-182.
  2. These vehicle charging stations shall not impact any required accessible spaces.
  3. Permitting and approval from the Township Code Enforcement Officer or designee is required for the electrical connection.

**§ 275-159. Parking area design standards.**

- A. All parking areas shall be in accordance with Chapter 210, Subdivision and Land Development. For purposes of this chapter, a parking space shall be a space in a garage or on a lot which meets the size and other requirement of this section, is reserved for the parking of a motor vehicle and which has direct access from a street. Each parking space shall be not less than 9 1/2 feet wide and 19 feet in length, except as otherwise provided:

	Parking space width	Parking space length	Aisle width	Notes:
PRD	9 ft.	18 ft.		
I – Institutional; parking garage structures	8.5 ft.	19 ft.	24 ft.	These requirements are for angled parking only.
C-3 Commercial Uses	9.5 ft.	19 ft.		30% of the total number of new parking may be 9 ft. wide by 18 ft. long in a contiguous parking area.
C-3 Multifamily Residential	9 ft.	18 ft.	24 ft.	
SU-1A Mixed Use	9.5 ft.	19 ft.		Except that 20% of the total number of new parking may be 8.5 ft wide by 18 ft. long in contiguous parking area.

- B. The aisle space between rows or banks of parking spaces shall be not less than 25 feet for 90° parking and not less than 20 feet for parking at angles of 60° or less.
- C. Parking areas shall be graded to provide convenient vehicular access and proper drainage and shall be paved in accordance with Township specifications, provided that the Township Council may authorize that the paving of a portion of the required parking area be deferred until such time as the unpaved area is required to meet parking needs. All parking, access or other vehicular service areas shall be adequately illuminated per lighting standards in Section 275-XXX.
- D. Every parking lot or area for off-street parking shall be separated from the street or highway by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways or exits, and the layout of such lot or area shall be such as not to require vehicles to back out directly onto a street.
- E. Parking spaces provided to serve accessory uses or other nonresidential uses in Residence Districts shall not be located in the required front yard. Such parking spaces shall be appropriately landscaped to screen such lot from adjoining or opposite residential properties.
- F. All parking shall be accessible from a street and an individual or shared driveway.

**§ 275-160. Shared parking and conditions.**

- A. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually; however, the total number of spaces required in a common parking facility may be reduced if:
  1. It is demonstrated to the Township Council that the hours or days of peak parking demand for the uses are so different that a lower overall total of parking spaces will adequately provide for the uses to be served.
  2. Such demonstration and proof shall be provided by a registered Transportation Engineer, the fees for whom shall be paid by the landowner(s).

**§ 275-161. Design and layout of off-street loading facilities.**

- A. In addition to the off-street parking space required in this article, any building erected, converted and/or enlarged for any nonresidential use shall provide off-street areas for loading and unloading and commercial vehicle parking space adequate for their needs.
- B. The minimum size loading space shall be 50 feet in depth, 12 feet in width, with an overhead clearance of 15 feet exclusive of drives and maneuvering space and located entirely on the lot being served. Any overhead canopy should extend a minimum of four feet beyond a loading dock.
- C. All loading space shall have adequate access from a street or way which does not block or interfere with the required parking as specified in § 275-167. This required space will be provided in addition to established requirements for patron and employee parking.
- D. In no case shall public rights-of-way be used for loading or unloading of materials. Furthermore, no loading dock or space shall be located or arranged in such a way that it is necessary to back any vehicle into or off any public right-of-way nor require the use of any public right-of-way for maneuvering space.

- E. Two-way driveways shall have a minimum width of 25 feet and a maximum width of 36 feet. One-way driveways shall have a minimum width of 12 feet.
- F. All accessory driveways and entrance ways shall be graded, paved and drained to Township standards, to the extent necessary to prevent nuisance of dust, erosion or excessive water flow across streets and adjoining properties.
- G. All off-street loading berths shall be provided on either the side or rear of the lot. In no case shall off-street loading berths be provided in the front of the lot.
- H. Such facilities shall be designed and used in such a manner as to at no time constitute a nuisance, a hazard or an impediment to traffic.
- I. All lighting fixtures used to illuminate parking areas shall be arranged to prevent glare into public streets and adjoining properties.

**§ 275-162. Access for off-street parking and loading areas.**

Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:

- A. Access drives shall not open upon any public right-of-way within 150 feet of the nearest right-of-way line of any intersecting public street or highway.
- B. The required sight distance for access drives which open upon any street or highway shall be in accordance with the regulations of the Pennsylvania Department of Transportation.

**§ 275-163. Screening and landscaping requirements.**

All screening and landscaping shall conform to the provisions of Article XX and the following:

- A. Screening between any parking area and the street line shall be effective at the time of occupancy, subject to the following provisions:
  1. All off-street parking areas which provide more than five parking spaces shall be screened from any abutting property of a more restrictive zoning district.
  2. Effective screens may be accomplished through the use of the following: plant materials, fencing or walls and/or mounding through the use of earthen berm forming a continuous visual buffer.
  3. The area for planting and fencing walls or earthen berms shall not extend beyond the street line. No off-street parking or loading and unloading facilities shall be located within 20 feet of the street line, unless otherwise provided in other sections of this chapter.
  4. When planting screens are employed, the following shall apply:
    - a. A buffer planting strip shall be provided. It shall be a minimum of 15 feet in width unless required otherwise in this chapter.
    - b. Planting screens shall be of sufficient height and sufficient density to constitute a continuous visual buffer five feet in height at the time of planting except as provided below. The type and spacing of plant materials shall be subject to review and approval by the Township Council.

- c. At all intersections of accessways, the required screening shall not be greater than 18 inches in height for a distance of 10 feet from the street.
  - 5. Whenever fencing or walls are employed, the effective height of the continuous visual buffer shall be no less than five or more than six feet, subject to other regulations of this chapter.
  - 6. Whenever earthen berms are employed, the effective height of the continuous visual buffer shall be no less than five feet in height.
- B. Landscaping within any parking area which provides more than five parking spaces shall be subject to the following provisions:
  - 1. Off-street parking areas and parking lots shall be landscaped to reduce wind and air turbulence, heat and noise and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to ameliorate stormwater drainage problems; to replenish the groundwater table; and to provide for a more attractive setting.
  - 2. Each parking lot shall have one shade tree of three inches to 3 1/2 inches in caliper for every five parking spaces if there are no existing shade trees. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees but shall not be the sole contribution to the landscaping.
  - 3. The landscaping and planting areas shall be reasonably dispersed throughout the parking lot; except where there are 20 or more parking spaces, in which case, the following shall apply:
    - a. Landscaped "islands" shall be provided at the end of each parking bay which contains 20 parking spaces. Such "islands" shall be a minimum of eight feet in width and 18 feet in length. Such "islands" shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
  - 4. All planting islands and planting beds within a parking lot shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone mulch may be used in conjunction with shrubs and ground covers, and shredded hardwood mulch shall only be used to form the plant saucers.
  - 5. The type, location, arrangement and dispersal of planting areas and plant materials shall be subject to the review and approval of the Township Council.

#### **§ 275-164. Reserve parking.**

- A. Conditions. The Township Council may, in its sole discretion, permit not more than 40% of the number of parking spaces required by the Township for a building, use or purpose to be designated "reserve parking," subject to the following conditions, together with any other reasonable conditions imposed by the Township:
  - 1. The owner of the property on which the reserve parking will be located must provide financial security which:
    - a. Is acceptable to the Township; and
    - b. Is in a form as provided in Article V of the Pennsylvania Municipalities Planning Code, or any successor provisions thereto; and

- c. Guarantees the cost of completing the reserve parking, including the cost of all improvements necessary to construct, install, pave and complete the reserve parking. Such improvements shall include, but not be limited to, improvements relating to stormwater management and landscaping as well as to the physical construction of the reserve parking.
  2. The owner of the property on which the reserve parking will be located must enter into an agreement or agreements with the Township relating to the completion of the reserve parking and the provision of financial security therefor [reserve parking agreement(s)]. The form of the agreements must be approved by the Township Solicitor.
  3. The amount of financial security may not exceed 110% of the estimated cost of completing the reserve parking as approved by the Township Engineer and may be increased for each one-year period beyond the first anniversary date of the initial posting of the financial security to an amount not exceeding 110% of the cost of completing the reserve parking as then determined and approved by the Township Engineer.
  4. The financial security must be maintained for a period beginning on the date the financial security is posted and ending on a date which is 10 years from the date of completion of the development on which the reserve parking is located or for such lesser time period which is approved by the Township Council (the reserve parking period).
  5. The reserve parking must be appropriately designated on plans specified by the Township and in a manner approved by the Township.
- B. Construction and completion.
1. At any time, either before, during or after the reserve parking period, the Township Council may, in its sole discretion, require and direct that all or any portion of the reserve parking, including all improvements necessary to construct, install, pave and complete the reserve parking, be completed within the time frame specified by the Township. The foregoing time frame may not be less than 180 days from the date of the Township's written notice or direction to complete. After the reserve parking period ends, the obligation to construct, install, pave and complete the reserve parking and the reserve parking agreement(s) (with the exception of the financial security requirements) shall continue until such time as either the reserve parking is completed to the Township's satisfaction; or, if earlier, the number of satisfactorily completed parking spaces is equal to or greater than the number required by the laws, ordinances and regulations then in effect.
  2. The reserve parking which the Township requires to be completed must be installed, constructed, paved and completed in a good and workmanlike manner at no cost or expense whatsoever to the Township and in strict conformity with all applicable agreements, plans, permits, laws, ordinances, resolutions, regulations and Township specifications. The construction, installation, paving and completion of the reserve parking shall be subject to inspection by and approval of the Township Engineer.
  3. If the required reserve parking is not completed in the manner and within the time frame required, then the Township may cause the reserve parking to be completed. In such event, the Township may pay for the cost thereof from the financial security provided or, if the reserved parking period has ended and the financial security has been released or if for any other reason the financial security is insufficient to cover all Township costs of completion, then the Township may require direct payment of or reimbursement for all such costs from

the landowner.

4. The Township may, in accordance with procedures set forth in the reserve parking agreement(s), authorize the release of portions of the financial security during the reserve parking period as portions of the reserve parking are satisfactorily completed.
  5. The Township shall authorize the release of all of the remaining financial security upon the earlier to occur of:
    - a. The satisfactory completion of all of the reserve parking and the compliance with all requirements of the reserve parking agreement(s); or
    - b. The expiration of the reserve parking period; and the satisfactory completion of all of the reserve parking which the Township has, during the reserve parking period, required be completed; and the compliance with all requirements of the reserve parking agreements.
- C. Change in use. In the event that the use of property subject to reserve parking obligations changes at any time, either before, during or after the reserve parking period, the property owner shall have the obligation to inform the Township of the change and to construct, install, pave and complete any additional parking required by the this chapter and other laws, ordinances and regulations then in effect, unless the Township either approves of the creation of reserve parking pursuant to and in accordance with the requirements of this section, including, but not limited to, the execution of reserve parking agreements, the posting of financial security and the commencement of a reserve parking period, or approves of the continuation of any existing reserve parking agreements applicable to the property.
- D. Protective period under the Pennsylvania Municipalities Planning Code. The construction, installation, paving and completion of the reserve parking spaces shall be governed by the laws, ordinances and regulations in effect at the time of such construction, installation, paving or completion, unless otherwise required by Section 508(4) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10508(4), or any successor provision thereto governing the effect of ordinance changes on approved plats. This section is not intended to and shall not be interpreted as extending the five-year period or any other protective period described in 53 P.S. § 10508(4) or any successor provision.

## ARTICLE XXIII: SIGN REGULATIONS

### **§ 275-165. Scope and applicability.**

- A. Any sign hereafter erected or maintained shall conform with the provisions of this chapter and any other ordinance or regulations of the Township relating thereto. Any sign not specifically authorized by the provisions of this chapter shall not be erected or maintained in the Township.
- B. It shall be unlawful for any person, firm, corporation or individual to erect and maintain signs, ground signboards, roof signboards, wall bulletins, projecting signs, marquees and marquee signs without first obtaining a permit from the Township, except those listed specifically in § 275-193.
- C. No display sign shall hereafter be erected or attached to, suspended from or supported on a building or structure, and no display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated until a permit for the same has been obtained, except those listed specifically hereafter in § 275-193.
- D. Application for such permits shall be made in writing to the Township in accordance with § 275-194 and shall present full particulars as to size, shape, material, supports, location and height above the sidewalk or ground, together with the written consent of the owner of the property on which the sign is to be located. All applications shall be accompanied by a plan drawn to scale, showing the sign, its size and its location with respect to the building and to the boundaries of the lot upon which it is situated.
- E. Nonconforming signs. Signs and their respective illumination existing at the time of the passage of this chapter and which do not conform to the requirements of this chapter shall be considered nonconforming signs, and once destroyed or removed for any reason, shall be replaced only with conforming signs and lighting. Nonconforming signs may be painted, repaired (including lighting) and altered in their wording provided such modifications do not exceed the dimensions of the existing signs.
- F. Abandoned signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned. An "abandoned sign," for the purpose of this chapter, is a sign erected on and/or related to the use of a property which becomes vacant and unoccupied for a period of six months or more; or any sign which was erected for a prior occupant or business; or any sign which relates to a time, event or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within 10 days of the abandonment as described above.
- G. The Zoning Officer is hereby authorized and empowered to revoke any permit issued by the Township, upon failure of the holder thereof to comply with any provision of this article.
- H. The provisions of this article shall not apply where signage is erected and maintained by Township Council for Township purposes, provided that all other required governmental permits are obtained by Township Council prior to such Township use.

### **§ 275-166. Determination of size of signs.**

- A. The size of any sign shall be determined in accordance with the provisions of this article and the following:
  - 1. Calculation of sign area. For the purposes of this section, "surface display area" shall mean the entire area within a continuous perimeter formed by straight lines joined at right angles which

enclose the extreme limits of the writing, background, representation or display of the sign face. The supports, uprights or structure on which any sign is supported shall not be included in determining the surface display area unless such supports, uprights or structure is designed in such a manner as to form an integral background of the display or to convey meaning.

2. When a sign consists of a letterhead board and such sign is erected on or attached to a building wall or other similar surface, the size of such sign shall be determined by calculating the area of the lettered board.
3. When a sign is a freestanding sign, the size of such freestanding sign shall be determined by calculating the area of the lettered board or the area of the combination of letters, numbers and/ or logos without a lettered board, as the case may be, excluding the area of the largest single surface of each support upon which such sign is erected.

### **§ 275-167. Sign restrictions and standards.**

A. Prohibited signs. It is unlawful to erect or maintain the following signs:

1. Spinning, animated, twirling or any other moving objects used for advertising purposes, whether containing a message or not.
2. Flashing, blinking, twinkling, spinning, animated or lighted moving signs of any type including automatic color-changing and rotating lamps of other displays that call attention to a sign.
3. Advertising cloth or paper banner or signs of any similar character suspended or hung on any property, except for temporary banners which may be permitted through special permission of the Township.
4. Wall bulletins or any other signs painted directly on the facade of a building or other structure.
5. Signs on mobile stands that can be moved from place to place and thereby not permanently affixed to the ground and other portable signs, be they freestanding, on the ground or temporarily attached to a building or other support.
6. Curb or sidewalk signs or signs painted, attached or suspended from any outdoor bench, chair or other structure.
7. Swinging and hanging signs.
8. Any signs which are not internally illuminated (example: direct flood lighting onto a wood pole sign).
9. Signs, letters and advertisements which are tacked, pasted, tied or otherwise affixed to poles, posts, trees, buildings, fences or other structures located on public property in the Township of Middletown.
10. No sign shall be temporarily or permanently placed, erected, attached or painted on any vehicle if such sign identifies, advertises or gives information with respect to a premises or a part thereof, or any sale or special event or other circumstance. A sign is permitted on a vehicle when:
  1. Such sign is required by law;
  2. Such sign is in transit from one location to another, for permanent installation, for a time not to

exceed three days;

3. The sign which is permanently painted or affixed to a vehicle and is incidental to the use of a currently licensed vehicle when that use is a means of transportation;
  4. The vehicle, capable of sheltering a use or occupancy, is used as a construction shed or is located as prescribed for buildings in the zoning regulation regulating the premises and is used and occupied for a purpose permitted by the zoning regulation. In such a case, the sign shall otherwise comply with this chapter.
11. Neon, LED or any internally-lit signs placed in windows of premises which can be seen from the outside are specifically prohibited.
  12. Unsafe and lawful signs. If the Zoning Officer shall find that sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in the violation of the provisions of this chapter, he shall give written notice thereof to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards set forth herein within 10 days after such notice, such sign or other advertising structure may be removed or altered to comply by the Zoning Officer at the expense of the permittee or owner of the property upon which it is located. The Zoning Officer shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Zoning Officer may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
  13. Signs placed, inscribed or supported upon the roofline or any structure which extends above the roofline of any building.
  14. Hot- or cold-air balloons or other floating devices, with or without a message, placed or tethered on any property or structure, except for balloons used for human conveyance, which may be permitted upon approval of the Township Council.
- B. General restrictions and standards. The following restrictions shall apply to all permitted signs:
1. No sign shall be located, arranged or placed in a position that it will cause danger to traffic or will interfere with traffic through glare; blocking of required sight lines for streets, sidewalks or driveways; confusion with a traffic-control device by reason of color, location, shape or other characteristic; or through any other means.
  2. All signs constructed or erected under the provisions of this chapter shall comply with the standards set forth in both Article XXIII of the BOCA National Building Code, as amended, and the National Electric Code, as amended.
  3. No sign shall be erected within the right-of-way lines of any public street, nor shall any such sign be closer than 15 feet to the curblines of a public street, unless specifically authorized by other ordinances and regulations of Middletown Township or other governmental bodies or agencies having jurisdiction or regulatory authority in the matter.
  4. No sign shall be designed or lighted in such a manner or placed in such a position or location that it will present an unreasonable risk of injury to persons or property, or that it will cause danger to traffic on a street by obstructing or hindering the view.
  5. All external illuminated signs shall be turned off 1/2 hour after closing of the business or entity

which they identify or advertise.

6. No illuminated sign shall be lighted on days when the business or permitted use is not open for business.
7. Every sign must be constructed of durable materials and shall be solidly and firmly attached, supported and/or anchored to the supports or framework.
8. Every sign must be kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed by and at the expense of the landowner or lessee of the property on which is located.
9. All permanent signs affixed to any permitted building shall be integrated into the architectural design of the building on which they are placed.

C. Double-faced signs.

1. A sign may be double faced provided it has two parallel surfaces that are directly opposite, matching in size and shape and are not over 18 inches apart.
2. The sign shall be considered as one sign and only one face shall be used to calculate the total size of the sign.
3. Should the two surfaces deviate from being parallel, exceed the maximum distance between the parallel surfaces, or differ in size or shape, the sign shall be considered as two signs.

D. Freestanding signs.

1. Pole Signs shall be made of metal or steel, except for those used in residential districts, which may be made of pressure-treated timbers. All such posts shall be embedded in the ground at least three feet six inches. The bottom edge of the sign area shall be a minimum of eight feet from the ground, and the top edge shall be no more than fifteen feet maximum above the ground.
2. Ground Signs shall be made of brick, stone, metal, steel, or pressure treated timbers and shall be embedded in the ground at least three feet six inches. Unless specifically authorized elsewhere in this chapter, Ground Signs shall not exceed six feet in height.

E. Projecting signs. Such signs may be erected and maintained, provided that:

1. No such sign shall project more than 12 inches beyond the building line if internally illuminated and not more than four inches if it is not internally illuminated, except that no sign shall project over a public sidewalk area.
2. All projecting signs shall be rigidly affixed to the building and to all supporting and framing structures, attachments and hardware.
3. No part of the projecting sign shall be less than eight feet or more than 14 feet above the ground on walkway level.
4. No projecting sign shall be permitted within 25 feet of any other projecting sign.

F. Billboards and Signs – Unless regulated elsewhere in this Ordinance or in another of the Township's ordinances, the following regulation shall apply to the lighting of new or relighting of existing

billboards and signs, whether from an internal or external lighting source, shall require a Building Permit, which shall be granted only when Township is satisfied that excessive illumination, light pollution, glare and light trespass have been adequately mitigated, and shall be subject to the following requirements:

1. Externally-illuminated billboards and signs shall have luminaires mounted at the top of the billboard or sign and aimed downward. The luminaires shall be designed, fitted and aimed to shield the light sources/lamps and their reflective surfaces from direct off-site view, and to place the light output onto and not beyond the sign or billboard face.
  2. Internally illuminated billboards and signs shall have a dark field/background, and light message. The maximum luminance at any point on the sign face shall not exceed 150 cd/m<sup>2</sup> during hours of darkness.
  3. Channel letter signs shall have dimming capability to allow adjustment of sign brightness when required by the Township to accommodate local ambient conditions. and complaints of excessive glare.
  4. Illumination of billboards shall be limited to commercial and industrial zoning districts and the illumination of billboards located within 400' of a residential use from which the billboard's illuminated surface is visible, shall not be permitted.
  5. Signs and billboards shall not resemble or simulate any warning or danger signal or any official traffic control device, sign or light.
  6. Billboards shall be extinguished automatically by a programmable controller with astronomical and semiannual time-change control and spring or battery power-outage reset, by no later than 11:00 each evening until dawn, except that signs for establishments (not companies) that operate or remain open past 11:00 p.m., may remain lighted no later than ½ hour past the time of the close of the establishment.
  7. Rotating, traveling, pulsing, flashing or oscillating light sources, lasers, beacons, searchlights or strobe lighting shall not be permitted.
  8. The use of highly reflective signage that creates nuisance glare or a safety hazard, shall not be permitted.
  9. LED. electronic/digital billboard and sign lighting shall only be permitted in commercial and industrial districts, shall not be allowed to operate between 11:00 p.m. and dawn when located where the sign face or its light output is visible from a residential district or use. On limited access highways, signs and billboards shall not be located within 1,000 feet of an approaching interchange or traffic-merging lanes. Except for time and weather signs, digital message shall not be permitted to change more than once every 60 seconds. From 30 minutes after sunset to 30 minutes before sunrise, the LED output shall be automatically reduced to a level that does not exceed 150 nits. Where located in an area with existing high-ambient light levels but not visible from a residential use, a sign-face brightness not exceeding 200 nits/cd/m may be permitted. The sign or billboard nighttime light output shall be capable of being further dimmed if Township so requires, when the lighting is judged to create a nuisance or hazard. LED light sources correlated color temperature shall not exceed 3000K.
- G. Each sign shall be removed within 10 days of the time when the circumstances leading to its erection no longer apply, or as provided for otherwise herein.
- H. All sign provisions of this article shall apply to smokestacks, water towers, silos and other similar

structures.

**§ 275-168. Permitted signs for which a permit is not required.**

- A. The following signs, whether located on public or private property and exactly as described below, are exempt from the need to secure a permit, but are subject to the provisions of §§ 275-190 to 275-192.
1. Decorations for a recognized officially designated holiday, provided they do not create a traffic or fire hazard.
  2. Official and governmental signs which shall include safety signs, trespassing signs, signs indicating scenic or historical points of interest and traffic signs.
  3. Signs designated the name of the owner or occupant of a property, the address of such property, the private ownership or roadways or other property provided:
    - a. Such sign is not in excess of one square foot in area.
    - b. Not more than one such sign is erected for each use.
  4. Temporary yard sale or garage sale signs, provided such signs:
    - a. Do not exceed two square feet in area.
    - b. Shall be removed within 24 hours after said sale.
  5. Temporary signs announcing a political, public, educational, charitable, civic, religious or similar campaign or event provided:
    - a. Such sign may be erected for a period not to exceed 30 days in any calendar year.
    - b. Such sign shall not exceed in size the area permitted for permanent signs as provided for each zoning district.
    - c. Such sign shall not be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
    - d. Such sign shall be no closer than 10 feet to the curblineline of a public street, unless specifically approved by the Township Council.
  6. Window signs. Such signs, excluding neon signs, shall be used to serve as an accessory sign to the sign associated with the principal use.
    - a. Window signs shall be permitted in Commercial Districts and where nonconforming commercial uses occur in other districts.
    - b. The total area of window signs shall not exceed 25% of the total glass area of the window in which it is placed.
  7. Official traffic signs.
  8. Trespassing signs indicating the private nature of a driveway or premises, provided that the size of any such sign shall not exceed two square feet.

9. Real estate signs which do not exceed six square feet.
  - a. Signs advertising the sale or rental of the premises or lot upon which they are erected provided that:
    - i. No more than one such sign shall be erected for any premises or lot held in single and separate ownership.
    - ii. No such sign shall be illuminated.
    - iii. All such signs shall be removed on the date of settlement.
10. Signs of contractors, mechanics and artisans, provided that:
  - a. Such signs shall be erected only on the premises or lot where such work is being performed.
  - b. The size of any such sign shall not exceed 12 square feet.
  - c. No such sign shall be illuminated.
  - d. Such signs shall be removed promptly upon completion of the work by the contractor, mechanic or artisan.
  - e. Not more than one such sign shall be erected for any premises or lot held in single and separate ownership.
11. Signs advertising sale of farm products grown on the premises, provided that:
  - a. The size of any such sign shall not exceed six square feet.
  - b. Not more than one such sign shall be erected on the premises, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - c. No such sign shall be illuminated.
  - d. Such signs shall be displayed only when farm products are on sale.
12. Informational signs such as: "entrance," "exit," "no parking," "visitor's parking," "no hunting," "no trespassing," "keep off the grass" and the like, on the same lot as the use to which the sign relates or the prohibition of the use to which the sign relates, provided that:
  - a. The area of said sign shall not exceed six square feet in area.
  - b. Such sign shall not contain any advertising

13. Signs installed at an athletic field or other exterior athletic facility owned, operated or utilized by a governmental or not-for-profit entity, advertising a product, business or activity not provided or conducted on the premises where such signs are installed, provided:
  - a. A plan depicting the location, number and size of all signs proposed to be installed pursuant to this section shall be submitted to the Township of Middletown for review and approval by the Zoning Officer prior to the installation of such signs.
  - b. Such signs shall be installed so that the message face side of each sign is directed toward the playing surface or spectator seating area, or both;
  - c. Such signs shall be attached to a fence, wall or other surface within the athletic facility so that the message face of the sign is not visible from the nearest public street or residential property;
  - d. The side of a sign opposite the message face when installed on a fence or other structure which is open to view from outside the athletic field or facility shall be painted or otherwise colored the same as the color of the fence or other structure on which the sign is installed;
  - e. No individual sign shall exceed 15 square feet;
  - f. No such sign shall be illuminated or animated;
  - g. All such signs shall advertise legal products, businesses or activities.

#### **§ 275-169. Permits.**

- A. Except as otherwise provided in § 275-193, no sign shall be erected in the Township until a permit therefor has been obtained in the following manner:
  1. An application in writing shall be made to the Township's Zoning Officer by the person desiring the permit.
  2. The application submitted to the Township's Zoning Officer shall give full particulars regarding the size, shape, material and supports of the sign as well as a sketch or sketches showing the location of the sign on the building or lot, the distance from the curblin and the height of the sign. The application shall be sufficiently specific to enable the Township's Zoning Officer to determine if the sign complies with the Township Zoning Ordinance as well as any other ordinance or regulation of the Township relating thereto.
  3. If the person submitting the application is not the owner of the property upon which the sign is to be erected, the written consent of the owner of the property on which the sign is to be erected shall accompany the application.
- B. Except as otherwise provided in § 275-193, whenever any sign is replaced by another sign, enlarged in any manner or altered, dismantled, damaged or otherwise destroyed to the extent of more than 75% of its value, a permit shall be required as provided in Subsection A(1) above before the sign is replaced, enlarged, altered or repaired.

#### **§ 275-170. Permitted signs by Zoning District.**

The following signs, exactly as described under each specific district are permitted, provided a sign permit has been obtained for such sign.

- A. Signs in Residential Districts. The following types of signs and no other shall be permitted in R-1A,

R-1, R-2, R-3, R-4, and Planned Residential Development Districts.

1. Signs of a permanent nature.
  - a. Signs indicating the name, profession or activity of the occupant of a dwelling, provided that:
    - i. The size of any such sign shall not exceed 2 square feet.
    - ii. Not more than one such sign shall be erected for each permitted use or dwelling.
    - iii. No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - b. Identification signs for permitted uses other than dwellings, provided that:
    - i. The size of any such signs shall not exceed 20 square feet.
    - ii. Not more than one such sign shall be erected on the premises.
    - iii. No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
2. Signs of a temporary nature.
  - a. Real estate signs from six to 20 square feet.
    - i. Signs advertising the sale or rental of the premises or lot upon which they are erected, provided that:
      - [a] Not more than one such sign shall be erected for any premises or lot held single and separate ownership.
      - [b] No such sign shall be illuminated.
      - [c] All such signs shall be removed on the date of settlement or lease, or within one year from the date the application for such signs was approved, whichever occurs first. Such signs shall be permitted for additional periods of six months upon application to the Township Zoning Officer.
    - ii. Signs advertising the development of the premises upon which they are erected, provided that:
      - [a] The size of any such sign shall not exceed 20 square feet.
      - [b] Not more than one such sign shall be erected on the premises or lot unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
      - [c] No such sign shall be illuminated.
      - [d] All such signs shall be removed upon settlement of all lots on the premises in all approved phases of the development.
    - iii. Signs indicating the location and direction of premises in the process of development, provided that:
      - [a] The size of any such sign shall not exceed six square feet.

- [b] Nor more than one such sign shall be erected on each 500 feet of street frontage.
- [c] No such sign shall be illuminated.
- [d] All such signs shall be removed upon settlement of all lots in all approved phases of development.

B. Signs in the I- Institutional District.

1. Signs identifying such uses as general medical or surgical hospitals, mental health care agencies or facilities, public or private educational campus-type institutions, governmental uses and community centers.

- a. One sign shall be permitted at the main entrance to the property, provided that it meets the following:
  - i. Ground sign only.
  - ii. Maximum area: 100 square feet.
  - iii. Maximum height: 17 feet 6 inches.
  - iv. If desired, two ground signs may be installed, one on either side of the main entrance.
  - v. If two signs are installed, the maximum combined sign area of both signs shall not exceed 100 square feet.
- b. One sign shall be permitted at each public vehicular entrance to the property other than the main entrance provided that it meets the following:
  - i. Ground sign only.
  - ii. Maximum area: 50 square feet.
  - iii. Maximum height: 14 feet.
- c. In addition to Section 275-XX.A.(1)(a) above, one changeable message board sign shall be permitted along the principal street frontage of the property provided that it meets the following:
  - i. Ground sign only.
  - ii. Maximum area: 40 square feet.
  - iii. Maximum electronic/ digital message area: 20 square feet.
  - iv. Maximum height: 8 feet.
  - v. The sign shall also comply with Section 275-192.A.(1) and (2).
- d. Wall signs shall be permitted provided that they meet the following requirements:
  - i. For a building with one internal street or parking lot frontage one wall sign shall be permitted.

- ii. For a building with more than one internal street or parking lot frontage, one wall sign per frontage shall be permitted.
- iii. Wall signs shall be attached to the wall of the building on the side of the frontage.
- iv. Maximum area: 50 square feet.
- e. Directional signs shall be permitted provided that they meet the following requirements:
  - i. Directional signs for the purpose of directing vehicular and pedestrian traffic within the complex shall be permitted.
  - ii. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic.
  - iii. Maximum area: 50 square feet.
  - iv. The height of any freestanding or ground sign shall not exceed ten feet above ground level.
  - v. No such sign shall be illuminated, except by lighting concealed or indirectly attached to the sign itself.
  - vi. Not such sign shall advertise any particular item, program or product.
  - vii. The location and placement of directional signs as permitted by this subsection shall be pursuant to a master plan depicting all such signs within the complex.
  - viii. Signs depicting “entrance”, “exit”, “pick-up”, “loading area”, and similar signs of a directional nature shall be permitted to be installed on a building wall provided that no such sign shall exceed forty square feet and shall contain letters and numbers only.

## 2. Signs identifying Continuing Care Retirement Communities.

- a. One sign shall be permitted at the main entrance to the property provided that it meets the following:
  - i. Ground sign only.
  - ii. Maximum area: 50 square feet.
  - iii. Maximum height: 17 feet 6 inches .
  - iv. If desired, two ground signs may be installed, one on either side of the main entrance.
  - v. If two signs are installed, the maximum combined sign area of both signs shall not exceed 50 square feet.
- b. Wall signs shall be permitted provided that they meet the following requirements:
  - i. For a building with one internal street or parking lot frontage one wall sign shall be permitted.
  - ii. For a building with more than one internal street or parking lot frontage, one wall sign per frontage shall be permitted.
  - iii. Wall signs shall be attached to the wall of the building on the side of the frontage.
  - iv. Maximum area: 36 square feet.

- c. Directional signs shall be permitted provided that they meet the following requirements:
  - i. Directional signs for the purpose of directing vehicular and pedestrian traffic within the complex shall be permitted.
  - ii. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic.
  - iii. Maximum area: 35 square feet.
  - iv. The height of any ground sign shall not exceed eight feet above ground level.
  - v. No such sign shall be illuminated, except by lighting concealed or indirectly attached to the sign itself.
  - vi. Not such sign shall advertise any particular item, program or product.
  - vii. The location and placement of directional signs as permitted by this subsection shall be pursuant to a master plan depicting all such signs within the complex.
  - viii. Signs depicting “entrance”, “exit”, “pick-up”, “loading area”, and similar signs of a directional nature shall be permitted to be installed on a building wall provided that no such sign shall exceed forty square feet and shall contain letters and numbers only.

3. Signs identifying elementary and secondary schools:

- a. One sign shall be permitted at the main entrance to the property provided that it meets the following:
  - i. Ground sign only.
  - ii. Maximum area: 25 square feet.
  - iii. Maximum height: 10 feet .
- b. One manual changeable copy sign not to exceed 25 square feet installed along the principal road frontage of the facility shall be permitted, or, in the alternative, one sign consisting of an identification portion not to exceed 20 square feet and the changeable copy portion not to exceed 25 square feet within a single structure.
- c. Wall signs shall be permitted provided that they meet the following requirements:
  - i. For a building with one internal street or parking lot frontage one wall sign shall be permitted.
  - ii. For a building with more than one internal street or parking lot frontage, one wall sign per frontage shall be permitted.
  - iii. Wall signs shall be attached to the wall of the building on the side of the frontage.
  - iv. Maximum area: 36 square feet.
- d. Directional signs shall be permitted provided that they meet the following requirements:
  - i. Directional signs for the purpose of directing vehicular and pedestrian traffic within the complex shall be permitted.
  - ii. The directional signs shall be for the convenience and safety of vehicular and pedestrian

traffic.

- iii. Maximum area: 20 square feet.
- iv. The height of any ground sign shall not exceed eight feet above ground level.
- v. No such sign shall be illuminated, except by lighting concealed or indirectly attached to the sign itself.
- vi. Not such sign shall advertise any particular item, program or product.
- vii. The location and placement of directional signs as permitted by this subsection shall be pursuant to a master plan depicting all such signs within the complex.
- viii. Signs depicting “entrance”, “exit”, “pick-up”, “loading area”, and similar signs of a directional nature shall be permitted to be installed on a building wall provided that no such sign shall exceed forty square feet and shall contain letters and numbers only.

C. Signs in the Commercial and Special Use Districts. The following types of signs shall be permitted in C-1, C-2, C-3, SU-1, SU-1 A, and SU-2.

1. General provisions.

- a. Any sign permitted in Residence Districts which relate to a use permitted in such districts.
- b. Real estate signs advertising the sale or rental of the premises upon which they are erected, provided that:
  - i. Not more than one such sign shall be erected for any premises held in single and separate ownership, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - ii. The size of any such signs shall not exceed 24 square feet.
  - iii. No such sign shall be illuminated.
  - iv. All such signs shall be removed on the date of settlement or lease, or within one year from the date the application for such signs was approved, whichever occurs first. Such signs shall be permitted for additional periods of six months upon application to the Township Code Enforcement Officer
- c. Real estate development signs advertising the development of the premises upon which they are erected, provided that:
  - i. Not more than one such sign shall be erected on any premises held in single and separate ownership, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - ii. The size of any such sign shall not exceed 50 square feet.iii. No such sign shall be illuminated. All such signs shall be removed when all the buildings, stores or lots on the premises have been rented or sold, or within one year from the date the application for such signs was approved, whichever occurs first. Such signs shall be permitted for additional periods of six months upon application to the Township Code Enforcement Officer provided that at the time said application is filed not more than 90% of the buildings, stores or lots on the premises have been rented or sold.

2. Signs advertising and identifying businesses or permitted commercial uses in the C-1 and C-2

## Commercial Districts.

### a. General Commercial Uses.

i. Freestanding Signs. Except as provided in Subsection B(2)(b) below, not more than one Freestanding Sign for each building or combination of buildings on the premises held in single and separate ownership shall be erected regardless of the number of uses or businesses in each building or combination of buildings, provided that:

[a] The height of any ground sign shall not exceed eight feet above ground level. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of Township Council.

[b] The size of any sign shall not exceed 25 square feet.

[c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

ii. Direct Public Entrance Wall Signs. Each occupant in the building or combination of buildings on the premises with a direct public entrance from a parking lot or street shall be permitted one sign, provided that:

[a] Such sign shall be attached to the wall of the building or combination of buildings on the premises.

[b] The size of any such sign shall not exceed 25 square feet.

[c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

iii. No Direct Public Entrance Wall Signs. All occupants in the building or combination of buildings on the premises with no direct public entrance from a parking lot or street shall be permitted one sign, which sign shall identify all such occupants, provided that:

[a] Such sign shall be attached to the wall of the building or combination of buildings on the premises and shall be located in the immediate vicinity of the public entrance to the building or combination of buildings.

[b] The size of any such sign shall not exceed 25 square feet.

[c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

b. Drive-thru Restaurants. In addition to signage provided per Section 275-195.B.(2)(a)[1] and [2], a restaurant with drive-through service may erect no more than 2 freestanding menu board signs, of a maximum size of 25 square feet per sign, and no more than 2 preview board signs, of a maximum size of 8 square feet per sign.

### c. Shopping Centers.

i. Freestanding Signs. Not more than one freestanding sign advertising and identifying each shopping center held in single and separate ownership shall be erected for each arterial road, as designated in the Comprehensive Plan, upon which the shopping center has frontage, provided that:

a. The height of any ground sign shall not exceed fifteen feet above ground level. In the interest of public safety, a sign of greater height

may be permitted by unanimous vote of the Township Council.

- b. The size of any such sign shall not exceed 50 square feet.
  - c. No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- ii. Direct Public Entrance Wall Signs. Each occupant in the shopping center with a direct public entrance to a parking lot or street shall be permitted one sign, provided that:
- [a] The sign shall be attached to the wall of the building or combination of buildings on the premises.
  - [b] The size of any such sign shall not exceed 25 square feet.
  - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- iii. No Direct Public Entrance Wall Signs. All occupants in the shopping center with no direct public entrance to a parking lot or street shall be permitted one sign, which sign shall identify all such occupants, provided that:
- [a] Such sign shall be attached to the wall of the building or combination of buildings on the premises and shall be located in the immediate vicinity of the public entrance to the shopping center.
  - [b] The size of any such sign shall not exceed 25 square feet.
  - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- d. A motel or hotel that regularly provides as part of its operation banquet facilities and/or conference and meeting rooms for group social functions shall be permitted, in addition to other permitted signage, a fifty-square-foot reader board sign to advertise special functions on such hotel or motel premises.
3. C-3 Major Shopping Center District. Signs advertising and identifying a major shopping center and occupants of a major shopping center in the C-3 District.
- a. Design Guidelines. The signage referenced in the concept signage program set forth in the Promenade at Granite Run Design Guidelines approved by Township Council shall be permitted.
  - b. Pylon Center Advertising Signs. Not more than two freestanding signs identifying or advertising the shopping center shall be erected; one for each arterial road upon which the shopping center has frontage, provided that:
    - i. The height of the freestanding signs shall not exceed 70 feet above the grade of the center line of the nearest public roadway.
    - ii. The size of any one of such signs on any given street frontage shall not exceed 600 square feet.
    - iii. The freestanding signs may contain an electrical changeable copy display sign or manual changeable copy display sign as part of the overall pylon sign display, provided that the changeable copy portion of the sign is of a maximum size of 75 square feet.

- iv. No such sign shall have a distance between the faces thereon in excess of six feet.
  - v. All such signs shall be set back at least 15 feet from any street or highway right-of-way line.
  - vi. No such sign shall be illuminated except by lighting concealed or indirectly attached to the sign itself, and may remain continuously illuminated.
- c. In addition to the freestanding signs provided for in Subsection above, one freestanding sign shall be permitted at each access drive into the shopping center, provided that:
    - i. The size of any such sign shall not exceed 25 square feet.
    - ii. No such sign shall exceed six feet in height. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of the Township Council.
  - d. Multi-Purpose Visual Display Sign. A property in the C-3 District containing 25 acres or more shall be permitted to install one multipurpose visual display exterior wall-mounted sign of a maximum size of 450 square feet, provided that any such display sign may not be affixed to a building wall which faces a public street.
  - e. Commercial Tenant Signage. Each occupant of a commercial building with a direct public entrance from a parking lot or street shall be permitted signage on the exterior of the building occupied by such occupant, provided that the total square footage of such occupant's signage shall not exceed the lesser of 2,000 square feet or 3% of the gross floor area of the space occupied by such occupant, or 100 square feet in the case of an occupied space which is less than 3,333 square feet.
    - i. Occupied spaces having multiple building facades shall be permitted one or more signs on each exterior wall of the building, subject to the following limitations:
      - [a] No single sign shall exceed 400 square feet; and
      - [b] The total area of such occupant's signage shall not exceed the maximum square footage of signage permitted for the occupied space.
      - [c] Not more than two signs shall be permitted on the wall of any one side of the building.
      - [d] All tenant advertising signage shall be turned off within ½ hour after the close of business.
  - f. A restaurant with drive-through service may erect no more than 2 freestanding menu board signs, of a maximum size of 25 square feet per sign, and no more than 2 preview board signs, of a maximum size of 8 square feet per sign.
  - g. Signage in C-3 District pertaining to a multifamily residential building shall be subject to the following:
    - i. Each multifamily residential building may have up to four building identification signs affixed to the façade of the building, provided that the aggregate area of such signs shall not exceed 150 square feet.
    - ii. One ground-mounted monument sign shall be permitted which shall not exceed a height of 10 feet above the grade at the base of such monument sign, and each face of such monument sign shall not exceed a total area of 50 square feet.
  - h. Directional Signage. Directional signs for the purpose of directing vehicular and pedestrian traffic within the shopping center shall be permitted in proximity to the entrances to the shopping center and at selected locations within the shopping center. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic, giving direction to specific stores and buildings within the shopping center.

- i. The size of any such sign shall not exceed 25 square feet.
  - ii. The height of any such sign above grade immediately surrounding same shall not exceed six feet.
  - iii. No such sign shall advertise any particular item, program or product but rather shall be limited to the giving of directions to particular stores or buildings within the shopping center.
  - iv. The location and placement of directional signs as permitted by this subsection shall be pursuant to a master plan depicting all such signs filed with the Township.
  - v. "Entrance," "exit," "pick-up," "loading area" and similar directional signs shall be permitted by the Township Code Enforcement Officer if necessary for the safety and protection of the public, provided no such sign shall exceed six square feet in area and no such sign shall contain any advertising.
4. Special use districts. Signs advertising and identifying businesses and permitted uses in Special Use Districts SU-1 and SU-2.
- a. The following types of signs advertising conforming special uses on conforming lots shall be permitted:
    - i. When the use of business is other than an office building or office complex, not more than one sign for the building or combination of buildings on the premises held in single and separate ownership shall be erected for each street upon which the special use has frontage, regardless of the number of uses or businesses in the building or combination of buildings, provided that:
      - [a] Where the sign is a freestanding sign:
        - [i] The height of any ground sign shall not exceed 15 feet above ground level
        - [ii] The size of any such sign shall be determined as follows:
          - [A] One square foot of sign shall be permitted for every four linear feet of street frontage on the street where the sign is erected up to a maximum size of 125 square feet.
          - [B] Where a special use has street frontage on more than one street, the linear feet along all streets where the special use has frontage may be used to calculate the size of such sign up to a maximum size of 125 square feet, provided that the Township Council unanimously agrees to permit the use of this type of calculation, and further provided that if this method of calculating the size of a sign is used, only one freestanding sign shall be permitted.
      - [b] Where the sign is attached to the wall of the building on the premises, the size of such sign shall be determined as follows:
        - [i] One square foot of sign shall be permitted for every four linear feet of building on the side facing the street where the sign is erected, up to a maximum size of 125 square feet.
        - [ii] Where the special use has street frontage on more than one street, the linear feet of building on all sides with street frontage may be used to calculate the size of such sign, up to a maximum size of 125 square feet, provided that

Township Council unanimously agrees to permit the use of this type of calculation, and further provided that if this method of calculating the size of a sign is used, only one wall sign shall be permitted.

- [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- ii. When the use of a business is an office building or office complex, the following types of signs are permitted:
  - [a] One freestanding sign designating the name and address of the building or combination of buildings, and identifying the occupants of said building or buildings, provided that:
    - [i] The size of such sign shall not exceed 36 square feet.
    - [ii] The height, setbacks and construction of the sign must comply with Section 275-192.D, Freestanding Signs. No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - [b] One sign for each occupant on the exterior of the office building identifying the occupant and his business or occupation, provided that:
    - [i] Such sign is attached to the wall of the building where the occupant is located.
    - [ii] The size of such sign shall not exceed 500 square inches.
    - [iii] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - [c] Such directional signs as are necessary to promote the safe and convenient movement of traffic within the driveways and parking areas, provided that:
    - [i] The size of such sign shall not exceed the product of the number of occupants listed on such directory multiplied by 250 square inches.
    - [ii] Such sign shall be erected perpendicular to the driveway nearest their location.
    - [iii] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- b. The following types of signs advertising nonconforming uses on conforming lots, or conforming uses on nonconforming lots or nonconforming uses on nonconforming lots shall be permitted:
  - i. Not more than one freestanding sign designating the name and address of the building or combination of buildings on the premises held in single and separate ownership and identifying the occupants of said building or combination of buildings shall be erected, provided that:
    - [a] The height, setbacks and construction of the sign must comply with Section 275-192.D, Freestanding Signs. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of Township Council.

- [b] The size of such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - ii. Each occupant in the building or combination of buildings on the premises with a direct public entrance from a parking lot or street shall be permitted one sign, provided that:
    - [a] The sign shall be attached to the wall of the building or combination of buildings on the premises.
    - [b] The size of any such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect,
  - iii. All occupants in the building or combination of buildings on the premises with no direct public entrance from a parking lot or street shall be permitted one sign which sign shall identify all such occupants and tenants, provided that:
    - [a] Such sign shall be attached to the wall of the building or combination of buildings and shall be located in the immediate vicinity of the public entrance to the building or combination of buildings.
    - [b] The size of any such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- c. Signs identifying conditional uses in SU Special Use Districts.
  - i. One freestanding sign, provided that:
    - [a] The size of such sign shall not exceed 36 square feet.
    - [b] The height, setbacks and construction of the sign must comply with Section 275-192.D. Freestanding Signs. In the interest of public safety, a sign of greater height may be permitted by Township Council.

5. Signs advertising and identifying businesses and permitted uses in Special Use Districts SU-1A

a..

- (1) One freestanding sign advertising and identifying a mixed-use development, or a major tenant within a mixed-use development shall be permitted to be erected at each driveway intersection with an existing street, provided that:
  - (a) If mounted on a background, freestanding signs shall not be less than seven feet nor more than 15 feet in height above the grade of the center line of the nearest public roadway. In cases where individual letters are separately braced to the ground, each letter shall be no more than 10 feet high measured from grade.
  - (b) If mounted on a background, freestanding signs shall not exceed 100 square feet in sign area. In cases where individual letters are separately braced to the ground, the maximum total sign area shall be no more than 1,000 square feet.

- (c) No such sign shall be illuminated except by lighting which is concealed, internally illuminated, or indirect.
  - (d) All such signs shall be set back at least 15 feet from any street or highway right-of-way line.
- (2) Directional signs for the purpose of directing vehicular and pedestrian traffic within the tract shall be permitted in proximity to the entrances to buildings. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic, giving direction to specific buildings and uses within the development.
- (a) The size of any such sign shall not exceed 25 square feet.
  - (b) The height of any such sign above grade immediately surrounding same shall not exceed six feet.
  - (c) No such sign shall be illuminated, except by lighting which is concealed, internally illuminated, or indirect.
  - (d) No such sign shall advertise any particular item, program or product but rather shall be limited to the giving of directions to particular buildings or uses within the development.
  - (e) "Entrance," "exit," "pick-up," "loading area" and similar directional signs shall be permitted by the Township Code Enforcement Officer if necessary for the safety and protection of the public, provided no such sign shall exceed six square feet in area and no such sign shall contain any advertising.

c. Signs advertising and identifying single-occupancy nonresidential buildings in the SU-1-A Mixed Use District.

[1] The occupant of a single-occupancy nonresidential building shall be permitted the exterior wall signs, provided that:

- [a] Not more than two signs shall be permitted on the wall of any one side of the building.
- [b] No one wall sign shall exceed 400 square feet or have a length of more than 50 feet, and no sign shall be closer than 10 feet to another wall sign unless it is deemed part of the same sign.
- [c] The total square footage of wall signage on each building face shall not exceed the lesser of 2,000 square feet or 3% of the gross floor area of the space occupied by such occupant, or 100 square feet in the case of an occupied space which is less than 3,333 square feet.
- [d] No wall sign shall be illuminated except by lighting which is concealed or indirect.

d. Signs advertising and identifying multi-tenant office buildings in the SU-1-A Mixed Use District.

[1] Multi-tenant office buildings are permitted to have one freestanding sign designating the name and address of the building, and identifying the occupants of said building or buildings, provided that:

- [a] The size of such sign shall not exceed 100 square feet.
- [b] No such freestanding sign shall exceed 10 feet in height measured from the mean grade at the base of the sign.
- [c] No such sign shall be illuminated except by lighting, concealed, internally illuminated or indirect.

[2] Multi-tenant office buildings are permitted to have one wall sign designating the name and address of the building, provided that:

[a] The sign area shall not exceed two square feet for each linear foot of building length;

[b] There shall be no more than one sign per building face;

[c] No such sign shall be illuminated except by lighting which is concealed, internally illuminated or indirect.

(3) In addition to wall signs designating the name and address of the building, multitenant office buildings are permitted to have additional wall signs on the exterior wall of an office building as follows:

(a) Multitenant office buildings having at least 200,000 square feet of gross leasable area are permitted to have three additional wall signs of a maximum of 200 square feet per sign on the exterior wall of the building.

(b) Multitenant office buildings having 100,000 square feet of gross leasable area up to 200,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 200 square feet per sign on the exterior wall of the building.

(c) Multitenant office buildings having 50,000 square feet of gross leasable area up to 100,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 100 square feet per sign on the exterior wall of the building.

(d) Multitenant office buildings having less than 50,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 50 square feet per sign on the exterior wall of the building.

(e) No such sign shall be illuminated except by lighting which is concealed, internally illuminated or indirect.

(4) Multi-tenant office buildings are permitted to have such directory signs as are necessary to promote the safe and convenient movement of traffic within the driveways and parking areas, provided that:

(a) The size of such sign shall not exceed the product of the number of occupants listed on such directory multiplied by 250 square inches.

(b) Such sign shall be erected perpendicular to the driveway nearest their location.

(c) No such sign shall be illuminated except by lighting which is concealed, internally illuminated or indirect.

(5) A master signage plan depicting the type, approximate location and approximate size of each proposed sign shall be submitted at the time of both preliminary and final plan submission.

D. O-R Outdoor Recreation Districts.

1. One identification sign shall be permitted on a property or properties under single ownership and management. The sign shall not exceed 50 square feet in area.

E. Manufacturing and industrial districts. In M Manufacturing and Industrial Districts, the regulations provided for in **C-1 Commercial Districts shall apply.**

F. Signs which are nonconforming and signs which identify and advertise nonconforming uses shall be permitted in accordance with the following regulations, except as otherwise provided in this chapter:

1. A sign which is nonconforming at the effective date of this chapter may be continued although such sign does not conform with the provisions of this chapter, but the size of any such nonconforming sign shall not be enlarged.
  2. A nonconforming sign may be changed to or replaced by another nonconforming sign, when authorized as a special exception by the Zoning Hearing Board. Whenever a nonconforming sign has been changed to a more restricted nonconforming sign, such sign shall not thereafter be changed to a less restricted nonconforming sign.
  3. No nonconforming sign which has been dismantled, damaged or otherwise destroyed to the extent of more than 75% of its value shall be repaired or rebuilt, except as a conforming sign, except when authorized to be repaired or rebuilt as a nonconforming sign as a special exception by the Zoning Hearing Board.
  4. If a nonconforming use of a building ceases or is discontinued for a continuous period of one year or more and such nonconforming use is deemed to be abandoned by virtue of the applicable provisions of other ordinances and regulations of the Township of Middletown, any nonconforming sign or any subsequent signs erected or maintained on the premises shall be in conformity with the provisions of this chapter.
  5. Signs which are conforming at the effective date of this chapter and which identify and advertise nonconforming uses shall be maintained as conforming signs in accordance with the provisions of this chapter.
- G. Off-premises signs. Signs may be erected and maintained that advertise a product, activity or business not conducted on the premises where the business is located, provided that:
1. No such sign shall be permitted in the R-1, R-1A, R-2, R-3, R-4, or PRDDistrict.
  2. Each off-premises sign shall be subject to the number, size, setback, height and lighting of the signage provisions of the zoning district in which it is located and shall be included in the total signage permitted on the premises where the sign is located.
- H. Changeable signs. Changeable signs shall be permitted subject to the following restrictions and limitations:
1. The maximum square footage of the portion of a changeable sign dedicated to electrical changeable copy display or manual changeable copy display for any property is limited to a maximum of 50% of the freestanding signage permitted for the property in the zoning district in which the property is located; provided, however, that the electrical changeable copy display or manual changeable copy display shall not exceed 50 square feet.
  2. Each property permitted to install a changeable sign shall be limited to one on-premises changeable sign, subject to the limitations herein, which may only be installed along the principal road frontage of the property.
  3. All signs constructed or erected hereunder shall not be subject to restrictions set forth in § 275-195B(2)(a)[3]; (3)(a)[3]; (4)(a)[5] and (b)[3]; and (5)(a)[1][c], (a)[2][a][iii] and (b)[1][c]
  4. The following restrictions and limitations shall apply to all permitted changeable signs with an electrical changeable copy display:
    - a. All signs constructed or erected hereunder shall comply with the Commonwealth of Pennsylvania regulations related to outdoor advertising. See 36 P.S. § 2718.101 et seq.; 67 Pa. Code, Chapter 445.

- b. All signs constructed or erected hereunder shall be subject to the prohibitions and restrictions set forth in § 275-192A(1) and (2).
  - c. All signs constructed or erected hereunder shall maintain a minimum static display time of 30 seconds.
  - d. No sign shall display a message which changes in intensity or color during the fixed display period.
  - e. The display message shall contain only words, numbers, pictures and/or symbols, none of which may be animated.
  - f. Message change sequence. The time interval used to change from one complete message display to the next complete message display shall be a maximum of one second.
  - g. All signs constructed or erected hereunder shall utilize automatic dimming controls in response to changing ambient light conditions and be equipped with light intensity limit via manual controls.
  - h. All signs constructed or erected hereunder shall have a maximum luminance level of 4,000 nits during daylight hours, and, if illuminated at night, must have a maximum luminance level at 750 nits, regardless of the method of illumination, at least 1/2 hour before apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA) and throughout the night, if the sign is energized, until apparent sunrise, as determined by the NOAA.
5. Changeable signs permitted under § 275-195A(1)(b)[4] shall not be subject to the restrictions and limitations set forth hereunder.

## ARTICLE XXIV: OPEN SPACE REGULATIONS

### **§ 275-171. Purpose.**

These provisions are designed to:

- A. Provide an effective means for identifying, organizing and maintaining open space.
- B. Provide for necessary active and passive recreation areas to complement existing open space and recreational uses.
- C. Preserve natural environmental resources and maintain ecological stability by:
  - 1. Encouraging the preservation of land contiguous to floodplains and thus supplementing existing floodplain district regulations;
  - 2. Limiting the development of steep slopes;
  - 3. Encouraging the preservation of open areas for groundwater recharge (aquifers);
  - 4. Limiting the disruption of existing woodlands;
  - 5. Encouraging the preservation of land surrounding natural resources as open space.
- D. Encourage the preservation of existing and potential agricultural land, particularly land with prime agricultural soils.
- E. Preserve historic and cultural resources by:
  - 1. Encouraging the use of historic sites as open space.
  - 2. Protecting the character of historic and cultural sites and structures by encouraging the preservation of surrounding land as open space.
- F. Aid in the implementation of the Comprehensive Plan and the attainment of its goals, objectives and strategies.

### **§ 275-172. Applicable Districts.**

- A. The provisions of this article are applicable to:
  - 1. The cluster option where open space is required in the R-1 and R-2 Districts.
  - 2. The association with townhouses and apartments in the R-4 Districts.
  - 3. Common open space in the PRD Districts.
  - 4. Designated open space within a mobile home park in the SU-2 Overlay District.
  - 5. Designated open space as it relates to the redevelopment of the Franklin Mint in the SU-1A District.
- B. Open space shall be provided in subdivisions and land developments in accordance with §§ 210-40

and 210-41 of Chapter 210, Subdivision and Land Development.

**§ 275-173. Use regulations.**

- A. Land designated as open space may be used for any of the following purposes and no other:
1. Permitted principal open space uses:
    - a. Conservation uses including woodlands and other natural areas such as grassland, marshes, lakes, ponds, streams and floodplains.
    - b. Agricultural uses, including cropland, pasture, silvaculture and nurseries.
    - c. Passive recreational uses such as parks and natural trails.
    - d. Active recreational uses including playing fields and playgrounds.
    - e. Planted areas used for visual screening purposes and noise control.
    - f. Presently existing structures may be used only in connection with the open space.
    - g. Boundary fences and walls.
    - h. Recreational structures
  2. Accessory uses:
    - a. No new parking facilities shall be located in designated open space areas.
    - b. Retail sales of agricultural products, including those grown or raised on the premises, shall not be located in designated open space areas.
- B. Cluster Option as a conditional use where open space is required in the R-1 & R-2 Districts. A landowner or developer may be allowed to reduce the requirements of § 275-21A, provided the following conditions are met:
1. The area of the tract to be subdivided must be at least 15 acres.
  2. A minimum of 30% of the tract shall be designated as restricted to open space uses.
  3. Designated open space areas shall be owned, maintained and administered in accordance with the provisions in this Article.
  4. The cluster subdivision shall be served by public sewer, which shall be constructed and operational at the time when residential occupancy begins, except as hereinafter provided:
    - a. Single-family detached dwellings on lots of one acre or more may be served by an on-lot sewage disposal system.
  5. The proposed development must conform to all standards and criteria for Conditional Uses in Article XX and all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.

6. When the cluster subdivision option is exercised, the area and bulk regulations for lots for single-family detached dwellings may be reduced as follows, provided that the gross density shall not be greater than that permitted for a single-family detached dwelling unit under § 275-26A(1).
7. Lots with public water.
  - a. Minimum lot area: 1/2 acre.
  - b. Minimum lot width at building line: 100 feet.
  - c. Minimum lot width at street line: 50 feet.
  - d. Maximum impervious surface area: 45%.
  - e. Maximum building coverage area: 20%.
  - f. Minimum depth of each front and rear yard: 35 feet.
  - g. Each lot shall have a minimum of two side yards.
  - h. Minimum aggregate width of side yards: 40 feet.
  - i. Minimum width of each side yard: 15 feet.
  - j. For corner lots, the minimum width for yard abutting a street shall be 35 feet and the minimum width for the other side yard shall be 15 feet.
8. For lots with public sewer and public water.
  - a. Minimum lot area: 1/4 acre for each principal permitted building.
  - b. Minimum lot width at building line: 70 feet.
  - c. Minimum lot width at street line: 50 feet.
  - d. Maximum impervious surface area: 50% of the area of the subdivision tract.
  - e. Maximum building coverage area: 25% of the area of the subdivision tract.
  - f. Minimum depth of each front and rear yard: 30 feet.
  - g. Minimum aggregate width of side yards: 30 feet.
  - h. Minimum width of each side yard: 10 feet.
  - i. Minimum width for yard abutting a street on corner lot: 30 feet.

#### **§ 275-174. Calculating open space areas.**

When computing open space areas for purposes of determining compliance with open space standards, the following shall not be counted as open space:

- A. The surface area of existing bodies of water, areas with seasonal high water table soils as designated in the soil survey, utility easements, rights-of-way, buffer areas to be used for permanent

sedimentation and erosion control or stormwater management facilities.

- B. When land with slopes of 15% or more is designated as open space, only 1/2 of such land may be counted, provided that only one-quarter of the land with slopes of 25% or more may be counted.
- C. When land which is in the floodplain, is designated as open space, only one-quarter of such land may be counted.
- D. Areas used for retail sales of agricultural products or areas of uses accessory thereto.
- E. Parking areas, streets, driveways and parking lots.
- F. Perimeter buffers up to 25 feet in width.
- G. Areas that have not been permanently protected by deed restriction, private conservation easement, or grant of fee title to the Township.

#### **§ 275-175. Delineating open space areas.**

- A. Locational criteria. Land designated for open space must be suitable for the proposed open space use. The location and proposed use of land designated to meet open space requirements must be shown on a preliminary and final subdivision and land development plans and on planned residential development plans.
- B. In planning a development, land with the following characteristics should be given a high priority for designation as open space:
  1. Land contiguous to floodplains, or as depicted on the Flood Hazard Map;
  2. "Important farmlands," as defined by the United States Department of Agriculture (USDA), Soil Conservation Service, including prime farmlands and additional farmlands of statewide importance. Areas with steep and very steep slopes as depicted on the Steep Slope Conservation District Map;
  3. Prime woodlands, as defined in Article II, and stands of trees where the majority of trees are greater than 12 inches in caliper;
  4. Land surrounding surface water resources such as lakes, ponds, streams and springs;
  5. Significant groundwater recharge areas (aquifers);
  6. Land surrounding historic and cultural sites and structures including:
    - a. Residential, farm and other structures on sites on, or candidates for, the National Register of Historic Places, the Pennsylvania Inventory of Historic Places or the Historic Building Survey;
  7. Lands already used for various passive or active recreational purposes and land surrounding such areas.

#### **§ 275-176. Design standards.**

The open space designated within a development area shall not be only left over or otherwise unusable

land. Such open space areas shall be laid out according to sound site design principles and shall provide appropriate access for residents and occupants of the development. Open space designated to meet minimum open space area requirements must meet the following design standards:

- A. Minimum contiguous area. A designated open space parcel shall have a contiguous area of not less than 1/2 acre.
- B. Minimum parcel width. An open space parcel shall have a minimum width of 30 feet at all points and a minimum average width of 50 feet.
- C. Maximum impervious coverage. Not more than 5% of the total designated open space area shall be covered by impervious surfaces.
- D. Minimum setback.
  - 1. Any buildings within the designated open space shall be located no less than 100 feet from the perimeter property lines; and no less than 50 feet from any new lot line created within a tract.
  - 2. New structures, including recreational structures, but not signs, boundary fences, walls, benches, light standards and landscaping, shall have a setback of at least 100 feet from all property lines.
- E. Minimum active recreational area.
  - 1. At least 25% of the required open space shall be designed, improved and maintained for playgrounds, or other active recreational facilities, unless the applicant or developer pays the recreational fee in lieu thereof, in accordance with § 210-40 of Chapter 210, Subdivision and Land Development.
  - 2. Areas within a development designated as open space for recreational use shall be contiguous to the developed area and not separated from it by existing roads, railroads, or public ways unless safe pedestrian access can be demonstrated. Whenever practical, such recreational uses shall be proposed on a single parcel, or minimum number of parcels, linked by a common means of circulation and access.
  - 3. Whenever practical, designated open space shall be arranged to supplement other designated open space or similar areas on adjacent properties, either by providing direct contact or some common means of circulation and access. In open space areas, provision of pedestrian pathways, to be available for general public use, is encouraged, where appropriate, in order to create an interconnected open space network throughout the Township.
- F. No new parking facilities shall be located in designated open space areas.
- G. Retail sales of agricultural products, including those grown or raised on the premises, shall not be located in designated open space areas.

#### **§ 275-177. Open space ownership and maintenance.**

- A. The developer shall restrict the open space areas so that their use will be limited to the use which is proposed and ensure that it will be appropriately maintained in perpetuity. The developer shall also identify who will own the open space.

- B. The Township Solicitor shall review the open space ownership and legal method used to ensure compliance with the provisions and shall determine whether it is effective. It is important to the Township that the open space owner be financially responsible and have both the means and incentive to pay the taxes and maintain the property.
- C. The following are some specific criteria applicable to alternative methods for restricting open space use:
1. Fee simple dedication. The Township may, but shall not be required to, accept an offer of a deed of dedication, provided that:
    - a. Such land is accessible to the residents of the Township.
    - b. The Township shall be reimbursed for all costs pursuant to the transfer of ownership. The Township will have access to the open space.
    - c. The Township may require a maintenance escrow and a title certificate.
  2. Homeowners' association: the establishment of a nonprofit homeowners' association. Such an association may dedicate an easement for public use of the open space land. The Township Council may, but shall not be required to, accept such an easement if an agreement is reached concerning the scope of public use and the future maintenance of the easement area.
  3. Condominium agreement. The open space may be controlled through the use of condominium agreements. All open space land so controlled shall be held as "common element."
  4. Dedication of easements. The Township may, but shall not be required to, accept easements for public use of any portion of open space land, provided that:
    - a. Such land is accessible to the residents of the Township.
    - b. The Township incurs no cost pursuant to the transfer.
    - c. There is a satisfactory maintenance agreement with the owner of the open space.
  5. Transfer to a private conservation organization. With permission of the Township Council, the landowner or developer may transfer either the fee simple title with appropriate deed restrictions running in favor of the Township, or the development rights or easements, to a private, nonprofit organization among whose purposes are to conserve open space land, provided that:
    - a. The organization is acceptable to the Township Council and is a bona fide conservation organization with perpetual existence.
    - b. The organization is chartered under the laws of the Commonwealth of Pennsylvania to administer deed restrictions limiting eventual disposition of such property for the purposes stated in their Articles of Incorporation.
    - c. The conveyance contains appropriate provisions for reversion of title in the event that the organization becomes unwilling or unable to continue to function.
- D. If a homeowners' association is formed, it shall be governed according to the following regulations:
1. The landowner or developer shall provide Township Council with the legal framework for the

association, including its bylaws and methods for maintaining open space, which shall be acceptable to the Township Solicitor.

2. The association is to be organized by the landowner or developer and operating before the sale of any lots within the development.
  3. Membership in the association is mandatory for all purchasers of dwelling units therein and their successors.
  4. The members of the association shall share equitably the costs of maintaining the open spaces. If a member fails to pay his pro rata share, then a lien against an individual property may be made in accordance with the provisions for same in the bylaws of the organization.
  5. The association shall be responsible for maintenance of insurance and taxes on open space.
  6. The association shall have or hire adequate staff to administer common facilities and maintain the open space to the satisfaction of the Township Council.
  7. The association shall have the authority and ability to promptly correct hazard conditions in the open space areas.
- E. The Township shall have the right to the documents creating the association and shall acknowledge that in the event that the association established to own and maintain open space, or any successor organization, shall at any time after designation fail to maintain the open space in reasonable order and condition in accordance with any and all approved plans, the Township may serve written notice upon such organization or upon the residents and owners, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition; and said notice shall include a demand that such deficiencies be cured within 30 days thereof and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.
1. At such hearing, Township Council may modify the terms of the original notice as to the deficiencies and may give an extension of the time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Township, in order to preserve the taxable values of the properties and to prevent the open space from becoming a public nuisance, may enter upon said open space and maintain the same for a period of one year at the expense of the organization. The cost of any such maintenance shall be borne by the owners of lots within the development from which the open space was derived. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the residents and owners.
  2. Before the expiration of said year, Township Council shall, upon its initiative or upon the request of the organization thereto before responsible for the maintenance of the open space, call a public hearing upon notice to such organization, or to the residents and owners of the project, to show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that such organization is ready and able to maintain said open space in reasonable condition, the Township shall cease to maintain said open space at the end of said year. If the Township shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the Township may, at its discretion, continue to maintain said open space during the next succeeding year and subject to a similar

hearing and determination, in each year thereafter. The decision of the Township, in any such case, shall constitute a full administrative decision subject to judicial review at the expense of the homeowners' association.

3. The cost of such maintenance by the Township shall be assessed ratably against the properties within the project that have a right of enjoyment of the open space and shall become a municipal lien on said properties. The Township, at the time of entering upon said open space for the purpose of maintenance, shall file a notice of such lien in the office of Judicial Support of Delaware County, upon the properties affected.
- F. The landowner of any subdivision or land development which is proposed to contain open space or common open space shall, when applicable, arrange with the Delaware County Board of Assessment a method of assessment of the open space which will allocate to each tax parcel in the development a share of the total assessment for such open space.

## ARTICLE XXV: ADMINISTRATION

### **§ 275-224. Administration and enforcement.**

- A. Provisions of this Chapter shall be enforced by a Zoning Officer and any Deputy Zoning Officer(s) appointed by the Township Council. The Zoning Officer shall meet qualifications established by the Township and shall demonstrate to the satisfaction of the Township experience and a working knowledge of municipal zoning, subdivision and land development standards and construction principles. The Zoning Officer shall not hold any elected office in the Township. The duties of the Zoning Officer shall include, but not be limited to, the following:
- (1) Administer this Chapter's provisions contained herein, including the enforcement thereof.
  - (2) Receive and examine all applications for building and use and occupancy permits, referring applications to the Planning Commission for review and recommendation when deemed advisable, record and file all applications for permits with any accompanying plans and documents.
  - (3) Issue permits only when there is compliance with the provisions of this Chapter.
  - (4) Receive applications for special exception and/or variances and forward these applications to the Zoning Hearing Board for action thereon.
  - (5) Receive applications for appeals from alleged error of the Zoning Officer and forward these applications to the Zoning Hearing Board for action thereon.
  - (6) Receive applications for conditional uses and forward these applications to the Planning Commission and Township Council for action thereon.
  - (7) Issue permits resulting from decisions on special exception or variance applications, or from decisions on conditional use applications, only upon written order of the Zoning Hearing Board or the Township Council, respectively.
  - (8) Conduct inspections or surveys to determine compliance or noncompliance with the terms of this Chapter.
  - (9) Issue cease and desist orders, in writing, to require correction of all conditions found to be in violation of the provisions of this Chapter. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of this Chapter.
  - (10) Coordinate with the Building Code Official as necessary in the issuance of building and use and occupancy permits.
  - (11) Upon the request of the Township Council, the Planning Commission, or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests to assist such bodies in making decisions.
  - (12) Maintain the official Zoning Map, showing the current zoning classification of all land. Make such reports as the Township Council may require.

**§ 275-225. Requirements for zoning permits.**

A zoning permit shall be required prior to the use or change in use of a building or land, expansion of any existing building, and prior to the change or extension of a nonconforming use and for the following accessory structures:

- (1) Class A or B Accessory structure of less than 1,000 square feet, including, but not limited to, carport, detached private garage, greenhouse, poolhouse, pavilion, shed and the like.
- (2) Class C Accessory structures, including, but not limited to, swimming pool, sports court, deck, patio, fence, ground-mount solar panel and the like.
- (3) Signs, per Article XX

B. A zoning permit shall be required for an agricultural building as defined by the Pennsylvania Construction Code Act of 1999, No. 45.

C. A zoning permit shall be required for manufactured or industrialized housing certified by the manufacturer to conform to applicable federal and state construction and safety standards, as identified in Section 901 of the Pennsylvania Construction Code Act of 1999, No. 45.

**§ 275-226. Application for zoning permits.**

A. An application for a zoning permit shall be made, in writing, by the landowner or his authorized agent to the Zoning Officer on forms furnished by the Township and shall be accompanied by a plot plan drawn to scale, showing the exact size and location of any buildings or other structures existing on the subject lot and the setback lines within which the proposed building or other structure shall be erected or altered and the location of any easements or rights-of-way existing on the lot. In addition, there shall be included with the application such other plans, documents and information as may be necessary to enable the Zoning Officer to ascertain compliance with this chapter and all other pertinent ordinances, codes and regulations.

**§ 275-227. Issuance of zoning permits.**

Zoning permits shall be granted or denied within 30 days after the written application has been filed with the Zoning Officer.

**§ 275-228. Permit Close-out.**

A. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this chapter and other applicable ordinances and regulations, including permits by other agencies.

**§ 275-229. Requirement for use and occupancy permit.**

A. A use and occupancy permit shall be required prior to any of the following:

- (1) Use and occupancy of any building or other structure hereafter erected or altered, for which a

building permit is required.

- (2) Change in use of any building or other structure or any part thereof.
- (3) Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
- (4) Change in use or extension of a nonconforming use.

B. It shall be unlawful for any person to use or occupy any building or other structure or land until a use and occupancy permit, if required, has been duly issued.

#### **§ 275-230. Applications for use and occupancy permits.**

All applications for use and occupancy permits shall be made, in writing, by the landowner or his authorized agent on forms furnished by the Township and shall include all information necessary to enable the Zoning Officer, in coordination with the Building Code Official, to ascertain compliance with this chapter.

#### **§ 275-231. Issuance of use and occupancy permits.**

No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all the provisions of this chapter and all other ordinances, regulations and codes of Middletown Township; provided, however, that a temporary use and occupancy permit may be issued by the Zoning Officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such a temporary permit requires any needed conditions and safeguards which will protect the safety of the occupants and the public.

#### **§ 275-232. Issuance or refusal of permits.**

If the Zoning Officer determines that an application is in compliance with the provisions of this chapter, it shall be his/her duty to issue the appropriate permit, and, if he/she determines that an application is not in compliance with the provisions of this chapter, it shall be his/her duty to refuse the permit, in which case, he/she shall instruct the applicant in the method of appeal or application to the Zoning Hearing Board or the Township Council, whichever is applicable. No permit shall be issued to any applicant until any and all fees incurred, which are payable to the Township, are paid in full.

#### **§ 275-233. Fees.**

- A. The Township Council shall establish, by resolution, a schedule of fees, charges and expenses and collection procedures for building permits, occupancy permits, sign permits, special exceptions, variances, appeals, conditional uses, amendments and others pertaining to this chapter.
- B. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Township Council.
- C. No action shall be taken on any application for any special exception, variance or appeal until all application fees, charges and expenses have been paid in full.

#### **§ 275-234. Enforcement notice.**

- A. If it appears to the Township that a violation of any provision of this chapter occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested, in writing, by the owner of record.
- C. An enforcement notice shall state the following:
  - (1) The name of the owner of record and any other person against whom the Township intends to take action.
  - (2) The location of the property in violation.
  - (3) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provision of this chapter.
  - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this chapter.
  - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

#### **§ 275-234. Causes of action.**

In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provision of this chapter, the Township Council or, with the approval of the Township Council, an officer of the Township or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Township Council. No such action may be maintained until such notice has been given.

#### **§ 275-235. Enforcement remedies.**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of a provision of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorneys' fees and costs incurred by the Township as a result of enforcement thereof.
  - 1. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge.
  - 2. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.
  - 3. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the ordinance to have believed that there was not such violation, in which event there shall be

deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and, thereafter, each day that a violation continues shall constitute a separate violation.

4. All judgment, costs and reasonable attorneys' fees collected for the violation of the ordinances shall be paid over to the Township. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. Nothing contained in this section shall be construed or interpreted to granting to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this section.

**§ 275-236. Standards and criteria for approval of conditional uses by Township Council and special exceptions by Zoning Hearing Board.**

- A. In evaluating an application before the Township Council for a conditional use or before the Zoning Hearing Board for a special exception, the Council and the Board shall require the applicant to provide reports, maps, plans and other related papers to ensure that the proposal:
  - (1) Will be consistent with the community development objectives articulated in this chapter (pursuant to Section 606 of the Municipalities Planning Code<sup>2</sup>).
  - (2) Will be consistent with the statement of purpose articulated for the district in which the use is proposed.
  - (3) Will be consistent with the Middletown Township Comprehensive Plan and, serves the health, safety, and welfare of the Township.
  - (4) Will conform to all requirements of Chapter 210, Subdivision and Land Development, and all other applicable ordinances, codes or regulations.
  - (5) Will promote the harmonious and orderly development of the zoning district involved.
  - (6) Will be compatible with the character and type of development existing in the area which surrounds the site in terms of the size, scale, height and bulk of the proposed uses and the size, shape and placement of buildings and other structures.
  - (7) Will not detract from or cause harm to neighboring properties by creating a negative impact on the aesthetic character of the community.
  - (8) Will be compatible with the uses permitted in the surrounding area in terms of the density and/or intensity of land use.
  - (9) Will reflect effective site planning and design in terms of energy efficiency, environmental protection and aesthetic composition.
  - (10) Will be reflective of sound engineering and land development design and construction principles, practices and techniques.
  - (11) Will be consistent with the logical, efficient and cost-effective extension of public services and utilities and will not adversely affect the public services and utilities of surrounding properties of the Township, as a whole, in terms of public water, sewers, police and fire protection and schools.

- (12) Will include proposals for the effective disposal of solid waste.
  - (13) Will provide safe and efficient access to roads and will not create traffic congestion, hazardous traffic conditions or excessive traffic volumes.
  - (14) Will be developed so as to limit the number of access points along a major public street and to develop frontage of buildings on access roads which are parallel or perpendicular to a major public street.
  - (15) Will provide any improvements needed to guarantee compatibility with adjoining roads.
  - (16) Will provide continuity of existing circulation systems including roads, sidewalks, trails and other walkways.
  - (17) Will provide adequate off-street parking and loading which will be minimally visible from adjoining public streets.
  - (18) Will utilize effective stormwater management techniques and soil erosion and sedimentation control techniques which are in character with and complementary to the proposed site grading and landscaping.
  - (19) Will provide for adequate environmental controls and performance standards to minimize noise, vibration, glare, heat, odor, smoke, dust, fumes, vapors, gases, air emissions, water emissions and outdoor storage.
  - (20) Will preserve, to the maximum extent possible, woodlands and other trees existing at the site.
  - (21) Will not be disruptive to existing topography, surface water resources and groundwater resources.
  - (22) Will include proposals for effective mitigation of potential adverse environmental impacts through a satisfactory environmental impact assessment report.
  - (23) Will provide landscaping to buffer and screen the use from surrounding properties, to complement buildings and other structures on the site and to enhance the overall character of the development.
  - (24) Will include proposed landscaping, in addition to that required as stated above, in areas such as the entrance, along property boundaries, in areas which are highly visible such as along roads, walks or trails and in other places where the use of trees, shrubs and ground cover would be functional and appropriate.
  - (25) Will provide fencing, walls, berming, terraces, walkways and other site improvement features to complement the proposed landscaping.
  - (26) Will provide effective, subdued lighting using light posts and fixtures complementary to the proposed architecture and the character of the surrounding properties.
- B. The Township Council and the Zoning Hearing Board may attach such conditions and safeguards, in addition to those already required by this chapter, as they may deem necessary to implement the purposes of the Municipalities Planning Code and this chapter and to protect the public welfare, which conditions and safeguards may relate to, but are not limited to, the design of buildings, roads and parking areas, landscaping and its maintenance as a sight or sound screen, lighting, noise, safety and the prevention of noxious, offensive or hazardous conditions.

- C. Special exceptions shall also be evaluated in accordance with the provisions of Article XXI.

**§ 275-237. Procedures for special exceptions and conditional uses.**

- A. The Zoning Hearing Board shall be governed by the provisions of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and Article XXI.
- B. In the case of an application for conditional use, the Planning Commission shall perform a review and provide counsel to the Township Council concerning the grant of approval or disapproval of the proposed use. Such review shall be conducted within 45 days of the date of the first Planning Commission meeting following the date of the complete details of the plan have been filed. The Planning Commission shall discuss the application at least one of its regularly scheduled public meetings during the review period.
- C. The Township Council shall, in the case of an application for conditional use, schedule a hearing for public review and comment pursuant to public notice as defined in Article II of this chapter. Should the Township Council deem it necessary, a second public hearing shall be held, at which time the public record may be enlarged. Within 90 days, the Township Council, at a regularly scheduled meeting or special meeting, shall take action to either approve or disapprove the use.
- D. The Planning Commission and Township Council shall be responsible for providing notification to the applicant, no less than 20 days prior to the occurrence of any hearing at which testimony will be heard and/or action taken upon approval or disapproval in order that he/she may present his/her case at such hearing. Subsequent to the receipt of such notification, the applicant shall be responsible for notifying, no less than 10 days prior to such hearing, all abutting property owners.
- E. Proof of proper notification shall be required as a precondition before any formal action on the application.
- F. Notification of the action taken by the Township Council shall be made, in writing, to the applicant. In the event of disapproval, it shall be accompanied by a statement of the reasons therefor. In the event of disapproval, the applicant may file a new application for conditional use or for subdivision and/or land development for another use of the subject property.
- G. In the event of conditional use approval, should the applicant fail to obtain all the necessary final plan approvals and building and related permits within 12 months of notification or, having obtained the necessary approvals and permits, fail to commence work thereunder within six additional months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned his/her appeal or application, and all provisions, conditional uses(s) and permits granted to him/her shall be deemed automatically rescinded by the Township Council. If the Township Council finds that a good reason exists for the failure to comply with the time periods specified above, an extension may be granted.
- H. The grant of approval by the Township Council for a conditional use shall in no way release the applicant from his/her obligation to comply with the applicable provisions of this chapter, Chapter 210, Subdivision and Land Development, or any other applicable Township, state and federal regulations.
- I. All notices, hearings and orders shall be made or shall occur in conformance with the provisions of this chapter and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## ARTICLE XXVI: ZONING HEARING BOARD

### **§ 275-238. Creation of Board.**

A Zoning Hearing Board is hereby established by the Township Council in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, as amended. Hereinafter, as used in this article, the term "Board" shall refer to the Zoning Hearing Board, and the term "Planning Code" shall refer to the Pennsylvania Municipalities Planning Code.

### **§ 275-239. Membership and organization of Board.**

- A. The membership of the Board shall consist of five residents of the Township appointed by the Township Council. Their terms of office shall be five years and shall be so fixed that the term of office of one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term of the member whose seat was vacated.
- B. The Township Council may appoint by resolution at least one but no more than three residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of this section, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. Alternates shall hold no other office in the Township, including membership on the Planning Commission and Code Enforcement Office. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to the Municipalities Planning Code unless designated as a voting alternate member pursuant to this section.
- C. Removal of members. Any Board member may be removed for cause by a majority vote of the Township Council, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it, in writing.
- D. Organization of Board.
  - (1) The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. As provided for by the Planning Code, the Board shall appoint a hearing officer(s) from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in § 275-242 below.
  - (2) The Zoning Hearing Board shall adopt rules and forms for its procedure in accordance with the provisions of this chapter. Meetings of the Zoning Hearing Board shall be held at the call of the Chairman and at such other times as the Zoning Hearing Board may determine. Such Chairman

or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Hearing Board shall be open to the public.

- (3) The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Township Manager and shall be a public record.
- (4) If, by reason of absence or disqualification of member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- (5) Within the limits of funds appropriated by the Township Council, the Board shall employ or contract for secretaries, clerks, attorneys, consultants and other technical and clerical services. However, the Solicitor for the Zoning Hearing Board shall be a different individual and from a different firm than the Solicitor for the Township Council.

#### **§ 275-240. Functions of Board.**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - (1) Challenge to the validity of the Zoning Ordinance or Zoning Map. The Zoning Hearing Board shall hear challenges to the validity of the Zoning Ordinance or Map as follows:
    - (a) A landowner who, on substantive grounds, desires to challenge the validity of the ordinance or map or any provision thereof which prohibits or restricts the use of development of land in which he has an interest shall submit the challenge to either the Zoning Hearing Board or the Township Council.
    - (b) Persons aggrieved by a use or development permitted on the land of another by the ordinance or map or any provision thereof who desire to challenge its validity shall:
      - [1] Submit their challenge pursuant to the Sections 909.1 and 609.1 of the Planning Code, as amended.
    - (c) In addition to the procedures set forth in Section 916.1 of the Municipalities Planning Code, in all such challenges, the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact and of interpretation and submit such findings as part of the record on appeal to the court.
  - (2) Substantive challenges to the validity of this chapter, except those brought before the Board pursuant to Sections 609.1 and 916.1(a)(2) of the Planning Code, as amended.

- (3) Challenges to the validity of this chapter raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
- (4) Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit or failure to act on the application therefor or the issuance of any cease-and-desist order.
- (5) Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of the Flood Hazard District provisions of this chapter. Appeals from the Zoning Officer's determination under Section 916.2 of the Municipalities Planning Code.
- (6) Appeals from the determination of the Township Engineer or the Zoning Officer in the administration of this chapter or provision thereof with reference to sedimentation and soil erosion control and stormwater management, insofar as the same relate to development.
- (7) Requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant, subject to the standards prescribed by law and contained in § 272-243 below.
- (8) Requests for special exceptions where this chapter states that a special exception may be granted or denied by the Board in accordance with express standards and criteria contained in this chapter.
- (9) In granting any variance or special exception, the Board shall comply with the provisions and standards of § 275-243 below and Article XXXVI.

#### **§ 275-241. Hearings and decisions.**

The Board shall conduct hearings and make decisions in accordance with the requirements of the Planning Code and any pertinent provisions of this chapter or the Rules of the Board:

- A. Upon the filing of an appeal with the Board, an application for a special exception or variance from the terms of this chapter or a challenge, the Board shall fix a time and place for a public hearing thereon, subject to the provisions of the Planning Code, and shall give notice thereof in accordance with the provisions of Subsection E below.
- B. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; but the parties may waive decision or findings by the Board and accept the decisions or findings of the hearing officer as final. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance or record before the Board and any other person including civic or community organizations permitted to appear by the Board.
- C. The Chairman, Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues. At the hearing, any party may appear in person, by agent or by attorney.
- D. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings; and a transcript of the proceedings and copies of graphic or written material received in

evidence shall be made available at cost to any party requesting such materials. In the absence of a stenographer, the hearing may be recorded for purposes of transcribing the record at a later time.

E. Notice requirements. In any case where the Zoning Hearing Board shall hold a public hearing, the Board shall, at the minimum, give notice of such hearing as follows, which notice shall state the time and the place of the hearing and the particular nature of the matter to be considered at the hearing:

- (1) By publishing a notice thereof once each week for two successive weeks in a newspaper of general circulation in the Township, provided that the first publication shall be not more than 30 days or less than 14 days from the date of the hearing.
- (2) By mailing or delivering due notice thereof to the applicant and other parties in interest, who shall be at least those persons whose properties adjoin the property in question, to the Township Council, the Township Manager, and to every association of residents of the Township who shall have registered their names and addresses for this purpose with the Zoning Hearing Board for the current year.
- (3) Notice of hearings, both published and written, shall state, in addition to the time, place and purpose of the hearing, the location of the lot, tract or structure involved and the nature and extent of the relief sought and the general nature of the question involved. Notice of said hearing shall be conspicuously posted at least one week prior on the affected tract of land. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time.

F. Notice of decision.

- (1) The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer, subject to all additional requirements of the Planning Code. Where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same within the period required by the Planning Code, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed, in writing, to an extension of time.
- (2) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- (3) Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within one year from the date of authorization thereof. The opinion of the Zoning Hearing Board shall set forth the date on which relief granted shall expire.
  - (a) The applicant shall have the right to seek an extension of the one-year limitation for a period not to exceed one additional year by making a written request to the Zoning Hearing Board at least 30 days prior to the expiration date set forth in the Zoning Board opinion or decision. The case shall be thereafter promptly scheduled for review on the request for an extension. Applications for a one-year extension shall be granted unless opposition is registered in person or by letter.
  - (b) The Zoning Hearing Board shall consider whether the evidence presented demonstrates a

change of circumstances which has occurred since the time relief was originally granted and whether such change in circumstances would have an adverse impact on the health, safety and welfare of the citizens of the Township of Middletown. Evidence offered by the applicant at the prior hearing shall be received into evidence as prima facie proof of the applicant's right to relief.

- (c) In no event shall the Zoning Hearing Board extend the relief granted more than one time. The relief granted is void, not voidable, two years beyond the date relief was first granted.

### **§ 275-242. Zoning appeals.**

- A. Appeals before Zoning Board and to court. All appeals, applications or challenges which properly come before the Board in accordance with the requirements of the Planning Code and all appeals to courts shall be subject to the time limitations and requirements of Article X and any other applicable provision of said code. Appeals and proceedings to challenge an ordinance may be filed with the Board, in writing, by the landowner affected, any officer or agency of the Township or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.
- B. Time limitations. No person shall be allowed to file any proceeding with the Board later than 30 days after any application for development, preliminary or final, has been approved by the appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

### **§ 275-243. Standards for variances and special exceptions.**

In any instance where the Zoning Hearing Board is required to consider a special exception or variance in the Zoning Ordinance or Zoning Map in accordance with the provisions of this chapter, the Board shall, among other things, consider the following standards:

- A. In the case of a variance:
  - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such generally created by the provisions of this chapter in the neighborhood or district in which the property is located;
  - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - (3) That such unnecessary hardship has not been created by the appellant;
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development or adjacent property, not be detrimental to the public welfare; and
  - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. In the case of a special exception, the Board shall consider all standards and criteria as set forth in

Article XXXIV and the following matters in determining whether or not the proposed special exception is appropriate and in harmony with the general purpose and intent of the ordinance:

- (1) The size, scope, extent and character of the exception desired.
  - (2) The character and type of development in the area surrounding the location for which the exception is desired.
  - (3) Whether or not the proposed exception would be an appropriate use in the area or whether it would be detrimental to the surrounding area.
  - (4) The zoning classification of the area affected.
  - (5) The number, extent and scope of nonconforming uses, if any, in the area.
  - (6) The anticipated future development of the area.
  - (7) The effect, if any, of the proposed exception on other properties in the area.
  - (8) Whether or not the proposed exception would affect the health, safety, morals and general welfare of the people of the residents in the surrounding area.
  - (9) The effect of the proposed exception on traffic in the area and the nature of the surrounding traffic conditions, so that appropriate regulations may be imposed on any proposed uses to provide for off-street parking either equal to or greater than the off-street parking facilities required within the area by any other then applicable ordinance.
  - (10) Whether the special exception authorized will represent the minimum modification to use the area requirements to afford necessary relief.
  - (11) The effect of the proposed exception upon the logical, efficient and economical extension of public services and facilities such as public water, sewers, police, fire protection and schools.
- C. In granting any variance or special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of the Planning Code and Zoning Ordinance, which conditions and safeguards may relate to, but are not limited to, the harmonious design of buildings, planting and its maintenance as a sight or sound screen, lighting, noise, safety and the minimizing of noxious, offensive or hazardous elements.
- D. In the case of a special exception or variance, it shall be the responsibility of the applicant to present such evidence as is necessary to demonstrate that the proposed use or modification complies with the pertinent criteria and standards set forth in this section.

#### **§ 275-245. Fees and charges.**

- A. When any person, firm or corporation shall appeal to the Zoning Hearing Board or shall apply to the Zoning Board for a variance and/or special exception, each such application and/or appeal, as the case may be, shall be accompanied by the payment of an application fee, which shall be payable to the Township of Middletown. Said fee shall be in accordance with the Township fee schedule and be used by the Township of Middletown to defray the costs for each hearing held in connection with the application and/or appeal. The fee for all other applications to the Zoning Hearing Board relating to zoning, including challenges to the Zoning Ordinance or Map, shall be governed by the Township fee schedule.

- B. Fees are to be used to defray costs such as:
- (1) The appearance fee for a stenographer, which shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or shall be paid by the person appealing from the decision of the Board if such appeal is made, and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
  - (2) Advertising required by law for hearing or hearings.
  - (3) Postage and photocopy costs incurred by the Township of Middletown.
  - (4) Salaries of Township Council or Zoning Hearing Board members in attendance at hearing or hearings, as the case may be.
  - (5) Such other reasonable and necessary costs incurred by the Township Council or Zoning Hearing Board, as the case may be, in connection with the application or appeal. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- C. In the event that a hearing on an application or appeal is conducted by the Township Council or the Zoning Hearing Board on the same date as another hearing or hearings which are subject to the provisions of this section and there are costs incurred by the Township which are not assignable to one particular application or appeal, said common costs shall be prorated by the Township among the various applicants in accordance with the Municipalities Planning Code and other applicable law.
- D. In the event that the costs set forth above exceed the payment made to the Township as required by this section, said applicant shall, upon demand by the Township, make payment to the Township of such additional costs as have been or will be incurred by the Township in connection with the application or appeal.
- E. In the event that the total costs payable to the Township authorized therein do not exceed payment or payments made by an applicant to the Township, the balance shall be returned to the applicant at the conclusion of the application or appeal.

## ARTICLE XXVII: AMENDMENTS

### **§ 275-246. Authority.**

The Township Council may from time to time amend, supplement, change, modify or repeal this chapter, including the Zoning Map, by amending the ordinance in accordance with the provisions of Article VI of the Pennsylvania Municipalities Planning Code and this section. Hereinafter, as used in this article, the term “Planning Code” shall refer to the Pennsylvania Municipalities Planning Code. In the case of a curative amendment submitted by a landowner, the special requirements of Section 609.1 and Article X of the Planning Code shall apply, as well as all other applicable provisions of the Planning Code and of this article.

### **§ 275-247. Amendment procedures.**

- A. Before voting on the enactment of an amendment, the Township Council shall hold a public hearing thereon, pursuant to public notice as defined by this chapter.
- B. At least 30 days prior to the Township Council's hearing on a proposed zoning amendment, the Council shall submit:
  - (1) Any amendment other than one prepared by the Township Planning Commission to the Township Planning Commission in order to provide the Commission with an opportunity to submit its recommendations prior to final action;
  - (2) A copy of any proposed amendment to the County Planning Department. Whenever the Township Council has adopted a Comprehensive Plan or any part thereof, the recommendations of the County Planning Department shall include a specific statement as to whether or not the proposed action on any zoning amendment is in accordance with the intent of the formally adopted portion of said Comprehensive Plan; and
  - (3) If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Township Council shall hold another public hearing before proceeding to vote on the amendment.
- D. Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Department.

### **§ 275-248. Amendment standards.**

- A. All amendments should be decided in accordance with the following standards to ensure that:
  - (1) The proposed use is consistent with the purpose of the article whereby it is permitted, the overall purpose of the zoning as contained in Article I and all other applicable provisions of this chapter.
  - (2) The proposed use will satisfy all of the relevant provisions and requirements of Chapter 210, Subdivision and Land Development, and any other applicable codes, ordinances and/or regulations.

- (3) The proposed use and its location are consistent with the Comprehensive Plan.
- (4) There is a demonstrated need for the proposed use and the use is in the best overall interest of the Township. (The applicant or petitioner shall have the burden of proof to so demonstrate.)
- (5) That the proposed use will contribute to the maintenance of the health, safety, morals and general welfare of the Township.
- (6) The proposed use is consistent with the nature of the uses existing on any immediately adjacent properties and it will not detract from or cause harm to neighboring properties and will be maintained in a manner in keeping with the character of the neighborhood.
- (7) The proposed use is consistent in concept and design with other amendments for which approval has been heretofore granted.
- (8) The proposed use is consistent with the logical extension of public services and will not measurably affect the public services and utilities of the surrounding properties.
- (9) If the use is one which traditionally adheres to some unique location criteria, the site for which the use is proposed is not one which obviates such criteria.
- (10) Any proposed construction will be consistent with good design principles and sound engineering and land development practices and is in keeping with the character of any existing construction within the neighborhood.
- (11) The proposed use will provide safe and adequate access to roads and public services (existing or proposed) and will not result in excessive traffic volumes or will make any improvements needed to guarantee compatibility with adjacent roads and public services.
- (12) The proposed use has provided for adequate sanitation.
- (13) The proposed use will provide for adequate screening and environmental controls as required under Article XX or otherwise specified by the Township Council, parking according to Article XXII, and signage according to Article XXIII.
- (14) The proposed use will conform with all standards and criteria as set forth in Article XXV regarding conditional uses.

# SUMMARY OF RESIDENTIAL USES PER ZONING UPDATE

---

## **R-1A Residential District**

The proposed district increased the minimum lot size to 2 acres for on-lot septic, in order to encourage the use of public sewers where feasible. No other substantial changes but the area and bulk and any associated provisions for any permitted conditional uses were moved to the Special Provisions Article.

## **R-1 Residential District**

The proposed district did not have substantial changes to area and bulk or permitted, accessory or conditional uses. This district permits a cluster option on tracts 15 acres or larger for a minimum lot size of ½ an acre with the 30% required open space, and the provisions for the cluster option are in the Open Space Article.

## **R-2 Residential District:**

The proposed district seeks to permit low to moderate density single-family residential development with ½ acre minimum lot sizes and an ¼ acre lot cluster option. There were no substantial changes to the district, but the cluster option provisions, and the conditional use provisions were moved to the Open Space and Special Provisions Articles respectively.

## **R-3 Residential District:**

The intention of the R-3 District is to serve as a transition area in the Township between single-family residential and attached and multi-family residential areas with the minimum lot sizes as small as ¼ acre. This district expanded in the Township to capture areas with existing smaller single-family lots to ensure that they are and remain conforming.

## **R-4 Residential District:**

With the removal of the R-5 Zoning District, the R-4 Zoning allows for the highest density of residential in the Township and is where the multi-family residential is primarily located. With historic lot sizes of 5,000 square foot lots for single family residential, this district sought to integrate existing lots by permitting 7,500 square foot minimum lot sizes.

## **PRD Planned Residential District:**

There were no substantial changes to the PRD District, with the exception of the removal of any on-lot septic development in the district. The PRD District is predominately built out in the Township.

# SUMMARY OF NON-RESIDENTIAL USES PER ZONING UPDATE

## **MS- Municipal Services District:**

This is an entirely new district created to accommodate lands owned by Middletown Township, including facilities, parks, and open spaces.

## **I- Institutional District:**

The proposed district consolidates from 4 separate districts to one institutional district for the Township. Added uses include RTMSD schools where previously they were in R-1, Fair Acres and associated County-owned lands (YMCA), and the continuing care facilities (Granite Farms, Lima Estates). Institutional uses are now by-right, rather than conditional use, and removed underlying R-1 use

## **OR- Outdoor Recreation District:**

The proposed district consolidates from 3 separate districts to one outdoor recreation district for the Township. With the creation of the MS district, the focus of the OR district is primarily for any recreation areas provided by other entities and organizations in the Township.

## **M- Manufacturing and Industrial District:**

The intention of the Manufacturing and Industrial district is the same, but has been broadened to accommodate modern manufacturing uses and existing uses that were considered nonconforming.

## **C-1 Neighborhood Commercial District:**

Revisions focused on the scale, in keeping with the character of the surrounding residential uses, while expanding the uses within the district that would be complementary to existing neighborhoods. This is the least intensive commercial district in the Township and as such is generally not located along the Baltimore Pike commercial corridor.

## **C-2 General Commercial District:**

Considered the primary commercial district for the Township with an increased intensity in uses this is generally the Baltimore Pike commercial corridor district. Lot sizes remain larger in comparison to many townships commercial districts with a 1 acre minimum. General design guidelines for development along the Baltimore Pike commercial corridor have been considered, but are not contemplated for this Zoning Ordinance at this time.

## **C-3 Regional Commercial District:**

Formerly the MCO- Mall Conversion Overlay district, the transformation of the site from the mall into a walkable, regional shopping center with apartments on site required revisions for this district in name primarily. Design guidelines and use regulations remain largely the same.

## **SU-1A Mixed Use District:**

The intent and purpose of this district for redevelopment of the Franklin Mint parcels has not changed, therefore, the provisions remain largely unrevised. Lighting, signage, etc. have been consolidated into General Provisions where feasible, which is consistent throughout all districts.

## **SU-1 Special Use District:**

The proposed district has expanded the use options and decreased the minimum lot size to be generally more consistent with any developable or redevelopment opportunities within the district. As a mixed-use district located along the Baltimore Pike commercial corridor, which is generally the highest intensity area of the Township, the added uses support the C-2 commercial uses.

## **SU-2 Special Use District:**

The purpose and intent of this district remains the same and minimal revisions have been made.

# SUMMARY OF SEPARATE ARTICLE PROVISION CHANGES

---

## **General Provisions:**

The overall intent of this Article was to provide supplemental regulations and standards that would be applicable to uses in any district; therefore, any specific use provisions were moved to the Special Provisions Article. New additions include Outdoor Lighting and Outdoor Storage; and the consolidation of the Steep Slopes regulations have been incorporated into this Article.

## **Special Provisions:**

The proposed district focuses on providing the area and bulk and other associated provisions for any specific uses included in the Zoning Ordinance. A chart at the beginning of the Article provides an overview of the uses included as well as where and how they are specifically permitted within each district.

## **Off-Street Parking & Loading:**

The proposed district incorporates new standards for uses not previously covered or recently added through this update and are included in a chart form in this Article. Also added to this district were provisions regarding EV charging stations.

## **Sign Regulations:**

The intention of the Sign Regulations Article is the same, but has been modified to accommodate the new non-residential districts and has included regulations for signs for Institutional uses.

## **Open Space Option:**

The purpose and intent of this district remains the same and minimal revisions have been made.