

**BLACK CREEK**  
**TOWNSHIP**  
**ZONING**  
**ORDINANCE**  
**2024**

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**ARTICLE 1**  
**GENERAL PROVISIONS**

Section 101. Title. This ordinance shall be known and may be cited as “The Black Creek Township Zoning Ordinance of 2024”.

Section 102. Authority. This ordinance is made and adopted under the grant of powers contained in the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended, 53 P.S. §§ 10101-11202.

Section 103. Purpose. This ordinance is intended to:

(1) Promote, protect, and facilitate any of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; the provision of adequate light and air; access to police protection, vehicle parking and loading space, transportation, water, sewer, schools, recreational facilities, and public grounds; as well as the preservation of the natural, scenic, and historic values in the environment and the preservation of forests, wetlands, and aquifers.

(2) Preserve prime agriculture and farmland considering topography, soil type and classification, and present use.

(3) Prevent one or more of the following: overcrowding of land; blight, danger, and congestion in travel and transportation; and loss of health, life, and property from fire, panic, or other dangers.

(4) Provide for the use of land within the township for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, as well as manufactured homes and manufactured home communities.

(5) Accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and non-residential uses.

Section 104. Community Development Objectives. The objectives of this ordinance are to:

(1) Provide standards to control the amount of open space, limit the amount of impervious surface and control the intensity of development in areas of sensitive natural resources or natural features to reduce or eliminate adverse environmental impacts.

(2) Control and regulate growth by providing for all types of residential, agricultural, commercial, and industrial uses in areas that have adequate community facilities, utilities, and infrastructure taking into consideration existing circumstances and

anticipated future development. These land uses are classified and then separated into different zoning districts within the township, including residential (low and medium density), commercial, industrial, agricultural and conservation.

(3) Preserve and maintain environmental areas of exceptional quality and scenic beauty and environmentally sensitive areas from inappropriate development.

(4) Lessen the danger and congestion of traffic on the roads, while at the same time discouraging development which utilizes heavy traffic either in number or size of vehicles on roads inadequate for such traffic.

(5) Secure safety from fire, flood, panic, and other dangers.

(6) Identify areas suitable for public and quasi-public uses and indoor and outdoor recreation.

(7) Control development by implementing regulations which allow for the review of such things as soil types, topography, physical characteristics, the environment, access, and utilities.

(8) Review and regulate the potential impacts development will have upon natural resources.

(9) Regulate parking and loading facilities to lessen traffic congestion and prevent traffic hazards while promoting traffic safety.

(10) Acknowledge technical developments in the telecommunication field have provided new options for the expansion and delivery of communication services to encourage efficient and adequate wireless communication services while at the same time protecting the public health, safety and welfare by regulating the construction and placement of communication towers, antennas, buildings, and structures while complying with Federal Communications Commission ("FCC") regulations on wireless telecommunications.

(11) Regulate small cell installations and wireless communications facilities to protect residential districts and dwellings; schools, parks, churches, playgrounds, historic districts, sites, and structures; to preserve scenic areas; to minimize aesthetic impacts; to preserve the health and safety of residents; and while being flexible in an attempt to respect the need of wireless communications service providers to relay signals without electronic interference from other service providers' operations, and not unreasonably limiting competition among them.

(12) Encourage consolidations, shared use, and co-location of antenna and antenna-mounting structures over the construction of new facilities.

(13) Implement buffers to promote public health, welfare, and safety; filter pollutants such as nutrients and toxins; preserve the resilience of water resources; reduce soil erosion and sedimentation; stabilize stream banks; provide food and habitat for wildlife; improve air and water quality; provide scenic and recreational opportunity; preserve energy; prevent loss of life or property from flooding; and work to alleviate excessive noise wherever possible.

(14) Preserve forests and the environmental and economic benefits that they provide while regulating timber harvesting activities to encourage the owners of forest land to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, historical and amenity values. The timber harvesting and land clearing regulations provided in this ordinance are intended to promote good forest stewardship; protect the rights of adjoining property owners; minimizing the potential for adverse environmental impacts; preserve historical and environmental sensitive areas; and avoid unreasonable and unnecessary restrictions on the right to practice forestry. Because proper cutting practices vary depending on the site and on landowner objectives, it is not the intent of the timber harvesting provisions of this ordinance to prescribe specific practices.

(15) Provide housing to comply with the Federal Fair Housing Act.

(16) Establishing locations for the extraction of minerals (mining, quarrying, oil, and gas wells etc.) in such a manner as to not conflict with any state statute regulating the operations of those uses.

(17) Providing quality energy in an economically friendly way that promotes the use of wind and solar by allowing for the construction, operation and location of wind and solar energy systems while establishing regulations to protect the public health, safety, and welfare of the community.

(18) Promoting new business development in appropriate areas that will provide additional tax revenue and job opportunities.

(19) Directing industrial and commercial developments to locations that will minimize conflicts with residential uses, while avoiding traffic congestion and safety problems.

(20) Regulate signs in a reasonable manner to promote safety and protect persons and property while exempting signs that have minimal impact on the community and prohibiting signs that cause safety or traffic hazards.

(21) Promote the efficient transfer of information in sign messages by permitting one to identify or locate a person or business; and prohibiting signs that distract motorists and obstruct pedestrians based upon the number and messages presented, while still permitting one to exercise freedom of speech and choice.

(22) Protect the public welfare and enhance the aesthetics, appearance and economic value of the township by regulating signs that do not interfere with scenic beauty and views; create a nuisance to persons using the public property and rights-of-ways; constitute a nuisance to use and enjoyment of other's property as a result of light, height, size and movement; and detract from property value, or the special character of particular zoning districts.

(23) Prohibit signs that constitute a nuisance by creating a condition harmful to the public health, safety and welfare or obstructing the free use of property to interfere with the use and enjoyment of life and property, or the free passage or use, in the customary manner, of any public property, public road or the property of another.

(24) Adopting an ordinance consistent with the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

Section 105. Interpretation of Ordinance Provisions. When interpreting the provisions of this ordinance the following rules shall apply:

(1) It is the intent of this ordinance to establish minimum requirements for the promotion of public health, safety, morals, and general welfare.

(2) In interpreting the language of this ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

(3) This ordinance does not repeal, annul, modify, or in any way impair, interfere with, or supersede any private restriction placed upon property by covenant, deed, or other private agreement. The provisions of this ordinance shall be separate from private restrictions or covenants.

(4) Unless this ordinance or any other ordinance, rule, law or policy provides otherwise, if an application under this ordinance would also be regulated by the Black Creek Township Subdivision and Land Development Ordinance ("SALDO"), then any permit issued, or approval granted under this ordinance shall be interpreted as conditional approval until the plan receives approval and is in compliance with the SALDO.

(5) Unless this ordinance or any other ordinance, law or policy provides otherwise, any zoning permit or approval shall be construed as being conditioned upon the applicant obtaining all other applicable permits and third-party approvals, including a building permit, highway occupancy permit, and stormwater plan approval.

Section 106. Repealer. The Black Creek Township Zoning Ordinance of 2013, as amended, is hereby repealed. All other ordinances, or parts thereof, which are inconsistent or in conflict with this ordinance are hereby repealed to the extent of any inconsistency or conflict.



Section 107. Severability. The provisions of this ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, unlawful, ineffective, or invalid, the validity of any of the remaining provisions of this ordinance shall not be affected. It is hereby declared to be the intention of the Black Creek Township Board of Supervisors that this ordinance would have been adopted had such unconstitutional, unlawful, ineffective, or invalid provision not been included therein.

Section 108. Procedural Defects. Any allegation that this ordinance has been enacted in a procedurally defective manner shall be appealed as provided by state law and must be filed no later than 30 days after the intended effective date of this ordinance.

Section 109. Liability.

(1) Any determination of the zoning officer, advice of a professional consultant, recommendation of the township planning commission or planning committee, or decision of the zoning hearing board or governing body shall not constitute a representation, guarantee or warranty of any kind by the township, in regards to the lawfulness or safety of any structure, building, or use, and shall not create any liability or cause of action against the township or any of its elected or appointed officials, boards or officers for any damage that may result from the determination, recommendation, or decision.

(2) If the zoning officer mistakenly issues or revokes a zoning permit, neither the township nor the zoning officer shall be liable for such action.

(3) When a person commences construction under a zoning permit, zoning determination, or zoning decision, such as the grant of a permit, variance, special exception, or conditional use, during the pendency of the appeal that person proceeds at their own risk as the permit or approval may later be reversed on an appeal by an aggrieved party.

(4) The zoning officer, or any employee charged with the enforcement of this ordinance, while acting for the township, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property from any act required or permitted in the discharge of his or her official duties. Any suit instituted against any officer or employee because of any act performed by him or her in the lawful discharge of his or her duties, shall be defended by the legal representative of the township. In no case shall the zoning officer or any of his or her staff be liable for costs in any action, suite, or proceeding that may be instituted in pursuance of this ordinance when such suit or proceeding is related to the zoning officer or staff acting in an official capacity.

(5) By filing an application, the applicant acknowledges disclosure of this section of the ordinance.

Section 110. Effective Date. This ordinance shall become effective immediately upon its date of enactment as set forth in Section 111 below.

Section 111. Enactment. The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania, by the authority of and pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended, do hereby adopt the “Black Creek Township Zoning Ordinance of 2024” this \_\_\_\_ day of \_\_\_\_\_, 2024.

**ATTEST:**

**BLACK CREEK TOWNSHIP  
SUPERVISORS:**

\_\_\_\_\_  
**SECRETARY**

**BY:** \_\_\_\_\_  
**CHAIRPERSON**

**BY:** \_\_\_\_\_  
**VICE CHAIRPERSON**

**BY:** \_\_\_\_\_  
**SECRETARY/TREASURER**

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**ARTICLE 2**  
**DEFINITIONS**

Section 201. Rules of Ordinance Construction. Unless the context clearly provides otherwise, the following words and terms shall be interpreted as follows:

- (1) Words used in the present tense shall include the future tense.
- (2) The word “person” includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship, or individual.
- (3) The words “used” or “occupied” as applied to any land, structure or building include the words intended, arranged, or designed to be used or occupied.
- (4) The word “building” includes “part thereof” and “structure”, and the word “structure” includes “part thereof” and “building”.
- (5) The word “lot” includes “plot”, “parcel”, “land” and “property”.
- (6) The terms “shall”, “must” or “may not” means that an action is required.
- (7) The term “may” or “should” means something is permitted but not required.
- (8) The basic distinction between the terms “means” and “includes” is that “means” is exclusive” while “includes” is not. If a definition says that a term means A, B, and C, then the term means only A, B, and C and cannot also mean D or E. If a definition says that a term includes A, B, and C, then the term includes A, B, and C, but it may also include D or E, or both.
- (9) The singular number includes the plural, and the plural the singular.
- (10) The masculine gender includes the feminine and neuter.
- (11) The word “road” includes “street”, “highway”, and “lane”.
- (12) Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or are defined in Section 202 below, shall be construed according to such peculiar and appropriate meaning or definition.
- (13) If a word is not defined in this ordinance but is defined in the Black Creek Township Subdivision and Land Development Ordinance (“SALDO”), as amended, the definition in the SALDO shall apply.

Section 202. Definition of Terms. For purposes of this ordinance:

“Abutting” or “Abuts”- means contiguous lots that share a common lot line, including lots located directly across from one another and separated by a street or waterway.

“Access”- means a way of providing ingress, egress, and regress to a lot.

“Access drive”- means an improved cartway designed and constructed to provide for vehicular movement between a public or private street and off-street parking or loading areas, buildings or uses.

“Accessory solar energy system (ASES)”- means an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one or more free-standing ground or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

“Accessory structure”- means a structure not attached to but located on the same lot as the principal structure or intended principal structure, which will be or is used to serve a purpose customarily incidental to and subordinate to the use of the intended principal structure or principal structure. An addition to a principal building is not an accessory building but is considered part of the principal building. An accessory structure is permitted on a lot without the principal structure. Accessory structures include such buildings as storage (lawn) sheds, garages and carports.

“Accessory use”- means a use customarily incidental and subordinate to the principal use or principal structure and located on the same lot as the principal use or structure. A permitted accessory use is allowed on a lot without the principal use.

“Accessory wind energy facility (AWEF)”- means a system designed as a secondary use on a lot, wherein the power generated is used primarily for on-site consumption.

“Acre”- means land area consisting of 43,560 square feet.

“Addition”- means a new structure attached to an existing structure that increases the size of the existing structure whether it be upward or outward.

“Adjoining” or “Adjacent”- means a lot having a common or shared lot line with a contiguous lot, or being separated by a street, waterway, right-of-way, or easement.

“Adult use”- includes an adult bookstore, adult entertainment, adult movie theater, and adult massage parlor.

“Adult bookstore”- means an establishment where 10 percent or more of the total retail floor area is occupied by books, magazines, periodicals, photographs, films, motion pictures, video cassettes, slides, instruments, devices, paraphernalia, or things that have a clear emphasis on depicting or describing explicit sexual activities or specified anatomical areas.

“Adult care center”- means a use providing supervised care and assistance to persons who need such daily assistance because of their old age or disabilities. This use does not include persons who need oversight because of behavior that is criminal, violent, or related to substance abuse. This use may involve occasional overnight stays but not a primary residential use. The use involves typical stays of less than a total of 60 hours per week per person.

“Adult entertainment”-means live entertainment where persons performing expose specified anatomical areas or display, simulate or carryout explicit sexual activities, including entertainers performing in a state of nudity (either partially or completely) or performing or dancing with “pasties” or “G-strings” or other means to cover portions of the anatomical areas of one’s body leaving other areas exposed.

“Adult massage parlor”- means an establishment where a massage is performed for some form of consideration on a person with the use of one’s hand or a mechanical device. This term does not include any type of massage therapy or treatment performed by a licensed medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state, or any accessory use to a permitted athletic or health club, educational facility, or similar establishment.

“Adult movie theater”- means a use where persons expose specified anatomical areas or display, simulate or carryout explicit sexual activities on film, motion pictures, videos, slides, or other forms of reproducing images that have an emphasis on depicting explicit sexual activities or specified anatomical areas.

“After hours club”- means a use that permits the consumption of alcoholic beverages by any number of unrelated persons between the hours of 2:00 AM and 6:00 AM and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises where the alcohol is consumed.

“Agent”- means a person who has written proof of authority to act on behalf of the landowner.

“Agricultural”- means crop farming, plant nursery and animal husbandry. See also “Agricultural uses”.

“Agribusiness”- means an agricultural operation that involves one or more of the following:

a. Concentrated Animal Feeding Operation (CAFO) means an agricultural operation that meets the criteria established by the Department of Environmental Protection under authority of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law where the operation has greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR Section 122.23.

b. Concentrated Animal Operation (CAO) means an agricultural operation that meets the criteria established by the State Conservation Commission in regulations under the authority of Title 3 (Agricultural) Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in Chapter 83, Subchapter D (relating to nutrient management) where the operation has eight or more animal equivalent units [AEUs] where the animal density exceeds two AEUs per acre on an annualized basis.

c. Other agribusinesses, including any agricultural operation other than a CAFO or CAO, whether involving animal, animal product, or vegetable production, which occurs within an enclosed building exceeding 10,000 square feet of gross floor area.

“Agricultural equipment sales and rentals”- means an establishment primarily engaged in the retail sale or rental of specialized machinery, equipment, and related parts generally used in agricultural, farm, and lawn and garden activities.

“Agricultural operation”- means an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aqua cultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The term does not include an agri-business, CAO, and CAFO.

“Agricultural product marketing and sales”- means an enterprise conducted upon, and accessory to, an active principal agricultural operation for the purpose of directly marketing agricultural products, in their natural or manufactured state, produced by the agricultural operation. The term includes any on-site processing, packaging, or other activity performed in direct marketing of the agricultural products produced by the agricultural operation. The term also includes roadside stands, farm markets, “pick-your-own” operations, and other similar uses.

“Agricultural related business”- means a use primarily engaged in servicing the needs of an agricultural operation by providing goods and services needed for and supporting agricultural operations. Agricultural related businesses are limited to agricultural equipment and other similar heavy-duty motor vehicle repair and service;

grain mills; processing, preparation, and retail sale of locally produced agricultural products; feed and farm supply stores and distributors; and warehousing, distribution, and wholesaling of agricultural products, supplies, or equipment. The term also includes self-storage facilities provided they are conducted in an agricultural building partially used for agricultural purposes.

“Agricultural support occupation”- means an enterprise conducted upon, and accessory to, an active principal agricultural operation or agribusiness.

“Agritourism”- means an enterprise conducted upon, and accessory to, an active principal agricultural operation or agri-business use, providing a combination of agriculture, entertainment, education, recreation, or active involvement elements, characteristics, and experiences related to the agricultural operation or agri-business. Activities include hayrides, pony rides, wine tasting, cornfield-maze contests, farmer’s markets, harvest festivals, rodeos, western style equestrian events and contests including but not limited to barrel racing and steer sorting that are offered to the public or to invited groups for the purpose of recreation, entertainment, and education.

“Aircraft”- means an airplane, helicopter, hot air balloon, or other device capable of flight. The term does not include an unpowered hang glider or parachute.

“Airport”- means an area used for the landing and taking-off of aircraft carrying either people or cargo, whether public or private. See also "Heliport".

“Aisle”- means the travelled way by which vehicles enter or depart a parking space.

“Alcoholic liquors, alcohol and malt or brewed beverages”- means those types of alcoholic liquors and beverages defined in the Pennsylvania Liquor Code, 47P.S. §1-101, et seq.

“Alley”- means a public or private way affording secondary means of access to abutting property and not intended for general traffic circulation.

“Alteration”- includes any change, addition, extension, enlargement, replacement, or movement of a building or structure, wall, or column.

“Animal clinic”- means a facility that has no more than two licensed veterinarians, whose diagnosis and treatment of animals focus on prevention and is limited to performing wellness examinations, minor surgical procedures, neutering and spaying. The use may have support staff consisting of receptionists, veterinary technicians, nurses, and assistants. However, the use does not involve overnight boarding of animals. A facility that cares for animals and does not meet the definition of an animal clinic shall constitute an animal hospital.

“Animal daycare”- means a use that involves the keeping of more than a total of five dogs, cats, or other domestic pets for temporary care a maximum of 12 hours per day.

“Animal hospital”- means a facility where one or more licensed veterinarians care for domesticated animals by providing one or more of the following services: “in-hospital” diagnostic and laboratory testing, radiology, therapy, treatment, surgeries, or pharmacy services. The use may have support staff consisting of receptionists, veterinary technicians, nurses, and assistants. The use may include short-term boarding incidental to treatment.

“Animal kennel”- means a place where more than five animals are kept, housed, boarded, bred, or trained. The term includes the keeping of no more than five dogs or cats or combination of dogs or cats.

“Apartment building”-means a multi-family residential unit constructed as a single building containing three or more single-family residential dwelling units.

“Applicant”- means a landowner, developer, or authorized agent of a landowner or developer, who has filed a zoning application with the zoning officer under the zoning ordinance.

“Asphalt, batch or concrete plant”- means the use of land for production of asphalt, concrete, or asphalt or concrete products, including storing or stockpiling of materials used in the productions process or of finished products manufactured on the property and the storage and maintenance of required equipment.

“Assisted living residence”- means any premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are provided for a period exceeding 24-hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self- administration. An assisted living residence is meant to allow an individual to “age in place”. The most significant difference between an assisted living residence and personal care home is the availability of an increased level of care available if it is needed. An assisted living residence provides skilled nursing for a resident, on-site, when their need becomes too great for just assisted living services. This use allows skilled nursing care at the same facility, eliminating the need for the person to move to another location. The facility is licensed by the state with or without a special care unit designation.

“Attic”- means that part of a building which is immediately below and completely or partly within the roof framing. Within a dwelling unit, an attic may not be counted as floor area unless it is constructed as or modified into a habitable room by the inclusion of dormer windows, an average ceiling height of six and one-half feet or more, and a permanent stationary interior access stairway to a lower building story.



“Auditorium”- includes arenas, conference centers, performing arts centers, and places where exhibitions or trade shows are held.

“Automobile”- means a motor vehicle, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle, or similar means of transportation powered by an engine or other mechanized means and designed to operate and carry persons or cargo on public streets. See also the definition of “Motor vehicle”.

“Automobile, boat, equipment, home and recreational vehicle sales”- means the use of any building, structure, or land for the outdoor or indoor display, sale or rental of automobiles, recreational vehicles, boats, motorcycles, trucks, trailers, mobile, manufactured, or modular homes. This term may include repairs as an accessory use provided that the requirements for an automobile repair garage are also met. The term does not include a manufactured home community or junk yard.

“Automobile detailing shop”- means a place where automobiles are primarily cleaned, washed, or waxed by hand.

“Automobile repair garage”- means an establishment where repairs, installations and improvements are made to motor vehicles, motorcycles, recreational vehicles or boats, including minor repairs permitted at an automobile service station and major repairs including the installation of parts and accessories; the performing of mechanical repairs, bodywork, painting, welding and the rebuilding of any motor vehicle, motorcycle, recreational vehicle, boat, or trailer. The term trailer refers to a device used to transport, tow, pull or haul a vehicle. The term does not include an automobile storage yard as a principal use.

“Automobile service station”- means an establishment where gasoline or other petroleum products are sold and minor repairs are made limited to oil changes, tune-ups, tire changing, servicing of spark plugs and batteries, adjustment of brakes, greasing, lubrication, radiator cleaning and flushing, replacement of mufflers, tail pipes, hoses, belts, lights, brakes and transmission and radiator fluids, wipers, and emergency wiring repairs.

“Automobile storage compound” or “Automobile storage yard”- means a use where passenger motor vehicles are towed, stored, or impounded and awaiting transport to a different location.

“Banquet hall”- means an establishment which is rented by individuals or groups to accommodate private functions, including banquets, weddings, anniversaries, and other similar celebrations. Such a use may include kitchen facilities for the preparation or catering of food, and the furnishing of alcoholic liquor or beverages for on-premises consumption during a scheduled event.

“Bar”- means an establishment used primarily for the sale or dispensing of alcoholic liquor and beverages, which may have live entertainment and food as secondary uses. The term does not include a tavern.

“Basement”- means a portion of a building that is partly or completely below grade or underground. A basement constitutes a story if the basement has a clearance from floor to ceiling of six and one-half or more feet, and the top of the ceiling of the basement is an average of five feet above the finished grade along the front side of the building that faces onto a street. A building that has a walk-out basement in the rear does not count towards the maximum number of stories of a building.

“Bed and breakfast”- means an owner-occupied dwelling containing not more than eight bed and breakfast units which are rented on a nightly basis for periods of not more than 30 days. Dining and other facilities are not to be open to the public but are to be used exclusively for residents and registered guests. Such rooms do not have separate cooking facilities but are to be a part of the principal structure.

“Bee keeping”- means the raising or keeping of bees within a man-made enclosure (beehive) for hobby or business purposes.

“Betting use”-means a use licensed by any authorized governmental agency wherein gambling activities are conducted such as off-track horseracing betting establishments and mini casinos. The term does not include state lottery sales or lawful small games of chances.

“Big box store”- means a store, including a supercenter, superstore, or megastore, that is usually part of a chain of stores, which has a gross floor area of at least 40,000 square feet.

“Board”- means a body granted jurisdiction under this ordinance or the provisions of the Pennsylvania Municipalities Planning Code, Act 247 as amended, to render final adjudications or decisions.

“Board of supervisors”- means the Black Creek Township Board of Supervisors.

“Boarding house”- means a residential building or portion thereof containing dwelling units rented for habitation for a specified period of more than five days, or on a week to week, month to month, or year to year basis, with the occupants of the units being non-transient, and utilizing the location as their domicile. The term does not include a dwelling unit, hotel or motel, personal care home, nursing home, assisted living residence, bed and breakfast, dormitory, or group home. The term may or may not involve providing meals to residents or providing shared cooking facilities.

“Bottle club” or “BYOB club”- means an establishment operated for profit or pecuniary gain which is not licensed by the Pennsylvania Liquor Control Board and admits patrons upon payment of a fee, cover charge or membership fee and in which

alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling them for use and consumption. The term does not include a licensee under the Pennsylvania Liquor Code, or any organization as set forth in Section 6 of the Solicitation of Funds for Charitable Purposes Act.

“Brewery pub”- means a retail establishment with on-premises consumption of malt or brewed beverages produced on the same premises, and which is licensed by the Pennsylvania Liquor Control Board. A brewery pub may also sell, for on-premises consumption, wine manufactured by the holder of a Pennsylvania limited winery license. The term includes a micro-brewery.

“Buffer area” or “Buffer yard”- means a strip of land area intended to separate one use from another use, wherein no structure, building, parking, or loading area, or storage may be located unless otherwise specified in this ordinance. A buffer area or yard may be considered a part of a minimum setback distance.

“Building”- means any roofed structure intended for shelter, housing, or enclosure of persons, animals, or property. A building is interpreted as including “or part thereof” or “addition”. Any structure having a roof attached to a principal building shall be considered part of the principal building.

“Building coverage”- means the total combined area of outside dimensions at ground level of the principal building and all accessory buildings and unroof structured requirement a building permit under the Uniform Construction Code (UCC). Percentage of building area or coverage is calculated by dividing the maximum horizontal area in square feet of all principal and accessory buildings covered by a permanent roof on a lot by the total lot area of the lot upon which the buildings are located.

“Building height”- means the vertical distance measured from the mean level of proposed finished grade at the perimeter of the exterior walls of the structure to the highest point of the roof for flat roofs; and to the bottom of the eaves for all sloped roofs, excluding exceptions to height limitations under this ordinance. Where any, or all, of a sloped roof is above the maximum building height, there shall be no occupied living or workspace within the structure above the maximum building height. The maximum height of bottom of eave to ridge of roof for sloped roofs is 20 feet.

“Building setback line”-means the actual distance between the closest part of a building including roof overhangs but excluding exceptions to yard requirements under this ordinance and in the case of a:

- a. Front yard, all adjoining street right-of-way lines.
- b. Side yard, all side lot lines.

c. Rear yard, all rear lot lines.

“Building width”- means the horizontal measurement between two vertical structural walls that are generally parallel of one building, measured in one direction that is most closely parallel to the required lot width.

“Bulk fuel storage facility”- means the storage of fuel beyond what is reasonably necessary for customary on-site use. This use includes the storage of fuel to be sold for off-site use.

"Bulk recycling center"- means a use involving bulk commercial collection, separation, or processing of types of waste materials found in the typical household or office for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does not primarily involve the processing of non-recycled solid waste. This use may not include a junkyard or industrial shredding.

“Car wash”-means a building where automobiles are cleaned mechanically, using a conveyor, sprayer, blower, steam-cleaning equipment, or other device. The use includes a place where motor vehicles are primarily cleaned, washed, or waxed with the use of a machine. The use may include detailing of motor vehicles by hand as an accessory use.

"Caregiver"- means the individual designated by a patient to deliver medical marijuana.

“Cargo Container”- means standardized reusable vessels that were originally designed for or used in packing, shipping, movement or transportation of freight, articles, goods, or commodities, or originally designed for or capable of being mounted or moved by rail, truck, or ship by means of being mounted on a chassis or similar transport device. The definition includes the terms “transport containers” and “shipping containers”.

“Carport”- means any roofed accessory structure opened on one or more sides and used for the storage of private or personal motor vehicles.

“Cartway”- means the surface of a street intended and available for use by vehicular traffic.

“Cemetery”- means a place where humans or animals are buried. This term includes mortuaries and mausoleums, but not crematoriums.

“Certificate of zoning compliance”- means an official document issued by the zoning officer confirming that a structure, building, or use for which a zoning permit is required complies with the zoning ordinance. This certificate authorizes the use or occupancy of a structure.

"Certified medical use"- means the acquisition, possession, use or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016, as amended, including enabling the patient to tolerate treatment for the serious medical condition.

"Change of use"- means any use, which differs from the previous use of a building, structure, or land.

"Check cashing business"- means an establishment engaged primarily in the cashing of checks by individuals or the deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date; or the offering of a loan until a paycheck would be received by the person receiving the loan. This term does not include any of the following:

- a. A state or federally chartered bank, savings association, credit union, or industrial loan association.
- b. A retail store engaged primarily in selling or leasing items to retail customers and that cashes a check for a fee not routinely exceeding one percent of the check amount as a service to its customers incidental to the retail store principal use.
- c. A financial institution as the term is defined under this ordinance.

"Childcare"- means a use involving the supervised care of children under age 18 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a nursery school.

"Childcare center"- means a facility licensed by the Pennsylvania Department of Human Services (DHS) in which seven or more children under the age of 16 unrelated to the operator receive childcare services outside of their homes primarily for periods of less than 18 hours per child during the average day. This use may also include educational programs such as "Head Start". The following three types of childcare uses shall not be considered a childcare center and are permitted by right without regulation under this ordinance:

- a. Care of up to six children by their own "relatives".
- b. Care of children within a place of worship during regularly scheduled religious services.

c. Care of up to three children within any dwelling unit, in addition to children who are “relatives” of the care giver.

“Clear sight triangle”- means an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the “corner” so as not to interfere with traffic visibility across the corner.

“Clothes cleaning laundry, industrial”- means an establishment that does laundry or dry cleaning of clothes or uniforms as a service for commercial or industrial establishments as compared with an establishment designated as “clothes cleaning, neighborhood”.

“Clothes cleaning laundry, neighborhood”- means an establishment that does laundry or dry cleaning of clothes or uniforms for persons in the community.

“Club” means- a building primarily used for non-profit social, educational, or recreational purposes. A club does not include any use where services or goods are sold primarily as a business or for a profit such as a night club or bottle club.

“Co-location”- means the mounting of wireless communications antennas used by two or more providers on the same antenna support structure, monopole, antenna tower, or other mounting structure.

“Combustible material”- means any organic or inorganic matter that has economic value in connection with the use and occupancy of a property. The term does not include “Combustible waste”, which means any organic or inorganic matter that presents a fire hazard and is a byproduct with no economic value from the use and occupancy of a property.

“Commercial use”- means a use that is carried on for profit by the owner, lessee, or licensee. The use includes retail sales, offices, personal services, and the sale of goods or services from a building, structure, or automobile.

“Common open space”-means a parcel or parcels of land, or a combination of land and water, located within a development and designed and intended for the use or enjoyment of residents of that development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

“Communications antenna”-means a device used for transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation, omni-directional or whip antennas, directional and panel antennas owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition does not include private residence-mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, citizen band radio antennas.

“Communications equipment building”- means an unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 square feet.

“Communication facility, small wireless”- means any equipment for the receiving or transmitting of wireless signals for commercial purposes, such as cellular telephone services, personal communications services (PCS), fleet communications systems and similar commercial facilities, whether operated in support of another business activity or available for the transmission of signals on a sale or rental basis; and all equipment required for the operation and maintenance of so-called "small cell" radio-frequency microwave communications systems that transmit and/or receive signals. This term does not include a communications tower.

“Communications tower, stand alone”- means a structure other than a building, such as a monopole, self-supporting, or guyed tower, designed and used to support communication antennas.

“Communications tower, height”- means the vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

“Community center”- means a use existing solely to provide religious, fraternal, social, and recreational programs and activities to the public or a designated group of persons in a community. This use may not include residential use or group home.

“Compost”- means the conversion of organic matter, such as yard waste, into fertilizer.

“Conditional use”- means a use permitted in a zoning district by approval of the governing body in accordance with the applicable provisions of the zoning ordinance. The use is classified under the heading “C” for the zoning district in which the property is located.

“Condominium”- means a set of individual dwelling units or other areas of buildings, each owned by a person in fee simple, with such owner assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which is created under the Pennsylvania Uniform Condominium Act of 1980 or the Pennsylvania Planned Community Act of 1996, as amended. The term is considered a multi-family dwelling unit or use for purposes of this zoning ordinance.

“Conspicuous” or “conspicuously”- means posting a notice or permit to place the public on notice of the issuance of a permit, the intended work or use to be conducted on a property, or the date, time, place, and purpose of a hearing, which a reasonable person would not believe they were trespassing while viewing it.

“Construction”- means the placement of materials and equipment in a defined area to be assembled, built, applied, or demolished in a temporary or permanent manner.

“Contractor storage yard”- includes any lot or structure, or part thereof, used to store vehicles, equipment and materials used by a contractor in a construction trade such as the building, construction or installation of a street, or structure or the parts of a structure (electrical, plumbing etc.). This term includes construction contractors, excavators, paving contractors, landscapers, and other similar construction trades. A contractor’s office is an accessory use to a contractor storage yard.

“Convenience store”- means any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with a convenience store. Accessory retail sales of gasoline or fuel products is permitted when specified in this zoning ordinance.

“Conversion” or “Converted”- means to change or adapt improved property to a use, occupancy, or purpose other than what was intended at its time of construction.

“County”- means Luzerne County, Pennsylvania.

“County planning commission”- means the Luzerne County Planning Commission.

“Crematorium”- means a facility equipped with a furnace where corpses are burned and reduced to ashes. The term also includes a cremation chamber or crematory furnace, which is an enclosed chamber in which heat is produced to heat buildings, destroy refuse, smelt or refine ores.

“Data Center”-means a centralized physical facility where computing and networking equipment is used to collect, process, and store data, as well as to distribute and enable access to resources.

“Decision”- means a final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Pennsylvania Municipalities Planning Code, Act 247, as amended, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions are appealable to the Court of Common Pleas of Luzerne County.

“Density”- means the total number of dwelling units permitted on a lot typically measured per acre.

“Department of Health (DOH)”- means the Pennsylvania Department of Health.

“Department of Human Services (DHS)”- means the Pennsylvania Department of Human Services.



“Destroy”- means the complete killing of noxious weeds or noxious weed plants above the surface of the ground by chemicals, cutting, tillage, cropping system, or any combination, in a manner that will effectually prevent the noxious weed from maturing to bloom or flower stage.

“Determination”- means a final action by the zoning officer charged with the administration of this ordinance, except the governing body, zoning hearing board and municipal planning commission, only if and to the extent the municipal planning commission is charged with final decision on preliminary or final plans under the SALDO. Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

“Developer”- includes a person who buys or develops buildings and land to make a profit.

“Development”- means any man-made change to improved or unimproved land, including buildings or other structures.

“Domestic pets”- means a dog, cat, rabbit, gerbil, lizard, parrot, or other animal normally, or ordinarily kept in the dwelling of its owner or under the control of its owner. This term does not include agricultural or farm animals such as cows, goats, horses, chickens, hens, roosters, hogs, or sheep, and exotic or wild animals including wolves, wolf-dog hybrids, tigers, lions, bears and venomous or constrictor snakes.

“Dormitory”- means a building used as living quarters for the exclusive use of bona-fide-full-time faculty members or students of an accredited college or university or primary or secondary school, and which is owned by and on the same lot as the college, university or school.

“Drive-in or thru facility”- means an establishment which by design, physical facilities or service encourages or permits customers to receive or purchase services or goods while remaining in their vehicles. The use for purposes of this ordinance is considered an accessory use to a permitted use provided it meets the supplemental regulations of this ordinance.

“Driveways”- means every entrance or exit used by vehicular traffic to or from properties abutting existing or proposed roads, streets, lanes, alleys, courts, and ways.

“Dwelling”- means a building or structure used for residential purposes. This term does not include hotels, motels, boarding houses, rooming houses, group homes, personal care, or nursing homes, assisted living residences, or other uses intended for transient occupancy.

“Dwelling types” includes the following types of dwelling units:

a. "Single-family"- means a residential building containing one dwelling unit to accommodate one family.

b. "Two family"- means a residential building containing two dwelling units each accommodating one family, and entirely separated from each other by vertical walls or horizontal floors, excluding possible common access to enter or exit the building or for access to a common cellar or basement. The term two-family includes twins or duplexes.

c. "Multi-family"- means a residential building containing three or more dwelling units each accommodating one family. The term includes apartments, condominiums, townhouses, and row houses.

"Dwelling unit"- means a building or portion thereof arranged or designed to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein. The term excludes manufactured homes but includes modular homes.

"Earth disturbance"- means a construction or other human activity which disturbs the surface of the land, including grubbing, grading, excavations, embankments, road maintenance, building construction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. The clearing of vegetation without disturbance of the land is not considered an earth disturbance activity.

"Easement"- means a right of use over property of another, or an interest which one has in the land of another. This right may be limited or unlimited depending on the grant. For purposes of this ordinance, an easement is commonly referred to as and considered a "street" for use of the owners of the burden and benefitted properties unless the easement agreement provides otherwise.

"Electricity generating plant"- means a principal use devoted to the creation, storage, conversion, distribution, or transmission of electrical energy for use at another location.

"Emergency services"- means a building used for the housing of fire, emergency medical or police equipment and related activities.

"Environmental sensitive areas"- means areas limited to parts of a property that contain steep slopes, ponds, lakes, streams, stream corridors, springs, wetlands, hydric soils, prime farm- land soils, highly erodible lands, vernal pools, floodplains, riparian buffer areas, significant stands of native, mature trees, existing wellhead protection areas, aquifer recharge areas, and geologic fractures.

"Essential public utility services"- means utility or municipal uses that are necessary for the preservation of public health and safety and that are routine, customary, and appropriate to the character of the area in which they are to be located. Essential

public utility services include the following and closely similar facilities: sanitary sewage lines, streets, water lines, electric distribution lines, stormwater management facilities, cable television lines, natural gas distribution lines, fire hydrants, streetlights, and traffic signals. Essential public utility services do not include a central sewage treatment plant, a solid waste facility, communications towers and antennas, a power generating station, septic or sludge disposal, offices, storage of trucks or equipment, fiber optic switch facility, and bulk storage of materials.

"Essential public utility services, enclosed"- means permanent buildings or storage areas associated with essential public utility services.

"Essential public utility services, open"- means essential public utility services limited to underground or overhead sanitary sewage lines, streets, water lines, electric distribution lines, stormwater management facilities, cable television lines, natural gas distribution lines, fire hydrants, street lights, and traffic signals.

"Establishment"- means a place where a business is carried on.

"Exotic animals"- means any animal of a species prohibited by Title 50, Code of Federal Regulations, as may be amended, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm, including:

- a. Amphibians- includes venomous frogs, toads, turtles, etc.
- b. Bear (Ursidae)- bears (includes grizzly, brown, black bears, etc.).
- c. Cat family (Felidae)- includes lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.
- d. Crocodilians- includes alligators, caimans, crocodiles, gavials, etc.
- e. Dog family (Canidae)- includes wolf, fox, coyote, dingo, or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being or other animal without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc.
- f. Pig- includes wild or domesticated swine, excluding certified Vietnamese potbellied pigs.
- g. Porcupine (Erethizontidae)-includes porcupines, skunks, etc.
- h. Primates (Hominidae)- includes sub-human primates, etc.
- i. Raccoons (Procyonidae)- includes raccoons and civets, etc.

j. Reptiles- includes venomous and constricting snakes (boa constrictors, pythons, etc.) venomous lizards etc.

k. Venomous Invertebrates- includes venomous spiders, scorpions, etc.

l. Weasels (Mustelidae)- includes weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets.

“Explicit sexual activities”- includes the fondling or erotic touching of human genitals, private parts, buttocks, anus, or breasts and simulated or actual sexual acts, such as intercourse, oral copulation, sodomy, and masturbation.

“Fairgrounds”- means a place where vendors display and sell retail merchandise and food and offer amusements to the public on an occasional basis.

“Family”- means one or more of the following:

a. Persons related by blood, marriage, or adoption.

b. Children placed into or receiving foster care.

c. Unrelated persons of more than four, who are living together, sharing household expenses and occupying a single dwelling unit as a common housekeeping unit. See also the definitions of a group home, which may allow a higher number of unrelated persons within a dwelling unit. A treatment or rehabilitation facility is not considered a family.

“Family childcare homes”- means a type of day care facility registered with the Pennsylvania Department of Human Services (DHS) in which four to six children who are unrelated to the operator receive child care services within a dwelling unit as an accessory use.

“Farm animal”- means those animals normally associated with agricultural operations, such as cattle, horses, and poultry. The animals are typically raised for human consumption, production of dairy products, pelts, or other commercial purposes.

“Fence”- means a structure constructed as a line of demarcation or barrier made of materials to enclose or screen areas of land.

“Fiber optic switch facility”- means a use that includes a building housing a generator or other equipment used in times of power outage or to improve processing speeds from data running along a backbone or right-of-way. If the use involves an antennae or tower then the use shall be considered a communications antenna or facility, small wireless.

“Financial institution”- means an establishment primarily involved with loans and monetary transactions with routine public interaction such as a bank or lending institution regulated by the FIDC.

“Fire escape”- means a set of stairs, constructed of durable, non-flammable metal, which is constructed on the exterior of a multi-story building to provide a secondary means of egress in the event of a fire or other emergency.

“Fitness club”- means a building in which facilities are provided for recreational athletic activities including bodybuilding and exercise classes and associated facilities such as a hot tub, spa, sauna, and solarium.

“Flea market”- means retail sale uses where more than one vendor displays and sells general merchandise that is new or used on a regularly occurring basis, including indoor and outdoor areas selling food and drink or displaying merchandise.

“Flicker”- means a repeating cycle or changing light intensity.

"Floor area, total"- means the total floor space within a building measured from the exterior faces of exterior walls and from the center lines of walls separating buildings. Floor area includes fully enclosed porches and basement and cellar or attic space that is potentially habitable and has a minimum head clearance of at least six and one-half feet. Floor area does not include unenclosed porches, decks, or breezeways.

“Forestry”- means the cultivation, cutting, or removal of trees for sale or for processing into wood products such as lumber. The term includes the planting, cultivating, harvesting, transporting, and selling of trees or other forest products for commercial purposes. The term includes logging but excludes sawmills.

“Frontage”- means a property line the length of which abuts a street or proposed street, the front lot line.

“Funeral home”- means a building or part thereof used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in the preparation of the dead for burial, the performance of autopsies and other surgical procedures, the storage of caskets and other related funeral supplies and the storage of funeral vehicles. This term does not include crematorium.

“Garage, private”- means a building or structure for the private use of the owner or occupant of a principal building situated on the same lot for the storage of motor vehicles used or owned by the owner or occupant with no commercial facilities for mechanical service or repair or the permanent storage of vehicles owned by persons other than the landowner.

“Garden center”- means the use of land, buildings or structures or part thereof for the purpose of buying or selling lawn and garden equipment, furnishing and supplies. The term includes a floral shop.

“General office”- means a building or portion of a building, wherein services are performed involving administrative, clerical, or similar type operations, or where services are offered such as bookkeeping, tax preparation, payroll services, contractors office with limited display areas and no contractor’s storage yard or outdoor storage, insurance agency and other similar type services. The term does not include any personal service establishment or a use that is specifically designated as a separate use in the use table under Article 3 of this ordinance.

“Glare”- means a sensation of brightness within the visual field which causes annoyance, discomfort or loss in visual performance, visibility, or ability to focus, or direct or indirect light from a use greater than one-half foot candle at habitable levels.

“Governing body”- means the Black Creek Township Board of Supervisors, Luzerne County, Pennsylvania.

“Gravel”- means a surface such as crushed stone that is impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement. Landscaping stone is not considered impervious area.

“Greenhouse”- means a building for the growing of flowers, plants, shrubs, trees, and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse but are sold directly from such lot at wholesale or retail.

“Grocery store”- means a retail establishment offering for sale prepackaged food products, household items, and other goods with a sale area of more than 10,000 square feet with or without the accessory retail sale of gasoline or fuel products. A store under 10,000 square feet is considered a convenience store.

“Group childcare home”-means a facility licensed by the Pennsylvania Department of Human Services (DHS) in which between seven to 12 children unrelated to the operator receive childcare services within a dwelling unit.

“Group home”- means a dwelling unit occupied by less than seven unrelated persons who function as a common household unit operated by a responsible individual, family, or organization with a program to provide supportive living arrangements to persons with special needs due to age, infirmity, emotional, mental, developmental, or physical disability or handicap. This definition includes facilities for the supervised care of persons with disabilities subject to protection under the Federal Fair Housing Act as amended. The term does not include a treatment facility or center.

“Ground clearance”- means the minimum distance between the ground and any part of the wind turbine blade, as measured from the lowest point of the arc of the blades.

“Grower and processor facility”- means any building or structure used to grow medical marijuana by a licensed grower and processor of medical marijuana that has a current and valid license from the DOH under the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016, as amended.

“Grower and processor of medical marijuana”- means a person who holds a permit from the DOH to grow and process medical marijuana.

“Halfway house”- means a residential facility housing a maximum of 10 persons who receive therapy and counseling under the supervision and constraints of alternatives to imprisonment, including pre-release, work release, restitution, or probationary programs or a non-residential facility involving similar types of programs. The purpose of a halfway house is primarily to provide supervision, rehabilitation, and counseling to mainstream people back into society, enabling them to live independently.

“Handicap” or “Handicapped”- means a person:

- a. Having a physical or mental impairment which substantially limits one or more of such person's major life activities;
- b. Having a record of having such an impairment; or
- c. Being regarded as having such an impairment. However, the term handicapped does not include current, illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802), or a person whose residency would constitute a direct threat to the health and safety of other individuals.

“Hazardous substances” or “Hazardous materials”- includes any material or substance that is stored or used in quantities that may cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions. The term includes the storage, sale, or manufacturing of fireworks.

“Health care campus”- means the use of a property for a combination of health care related uses such as a hospital, hospice, health care outpatient facility, health care educational facility, health care office, wellness and fitness center, health care residential facility, adult and childcare centers intended to serve family members of patients, staff, physicians, students and visitors to the health care campus, and health care commercial

facilities, and health care accessory related facilities. The term excludes rehabilitation and treatment facilities.

“Health care commercial facility and uses”- means facilities or uses intended for patients, staff, physicians, students and visitors and their family members of a health care campus limited to the following: gift and card shops, flower and plant shops, sale of common health care-related items, personal care items, the sale of convenience items and/or novelties, sale of items for fundraising, sale of food and beverages, cafeterias/cafes/food courts/restaurants or similar uses, coffee shop, vendor carts or kiosks for the sale of items listed above, bookstore, pharmacies/drug stores, stores for medical devices, medical uniforms, clothing, apparel and accessories, health food stores, convenience stores, florist, banks, financial institutions, automatic transaction machines, and personal care services such as barber shops or beautician shops, and laundry and/or dry cleaning as well as drive-through facilities for the above.

“Health care education facility”- means a facility which provides education or research related to health care, health maintenance, wellness, or the business of health care. The use includes a college, university, or trade school affiliated with an accredited medical or nursing school.

“Health care office”- means offices for health care related professionals, administrative and support staff, and offices and laboratories for drawing and testing of specimens, diagnosis, or health care research. The term excludes rehabilitation and treatment facilities.

“Health care outpatient facility”- means a medical facility, separate from or in conjunction with a hospital, which provides, on an outpatient basis, services such as medical testing, diagnostic testing, which may include overnight observation or diagnostic testing, the drawing and testing of laboratory specimens, urgent or express care, surgery, treatment, rehabilitation, alternative medicine, or other health care-related services. A health care outpatient facility may include overnight stays by patients. The term excludes rehabilitation and treatment facilities.

“Health care residential facility”- means a hospice, nursing home, personal care home, skilled nursing facility, assisted living residence, life care facility, memory care facility, transitional care facility or similar living facilities, family lodging center, residence hall for students studying a health care field, accessory housing facilities for on-site medical staff, and independent living facility. A stand-alone nursing home, personal care home, skilled nursing facility, assisted living residence, life care facility, memory care facility, transitional care facility or similar living facility shall include an area of no less than 70 percent of the building footprint area, proximate to the building suitable and developed for passive recreation use such as walkways and benches.

“Heavy industrial”- means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive



materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes asphalt, concrete and batch plants, commercial hog farms, fur farms, slaughterhouse, and fertilizer plants. The term does not include any industrial use that is designated as a separate use under the use table in Article 3 of this ordinance.

“Heliport”- means an area, either at ground level or elevated on a structure used for the loading, takeoff and landing of helicopters, and including accessory facilities such as parking, waiting or stand-by areas, fueling and maintenance.

“Hemp”- means the plant *cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry-weight basis. The term includes industrial hemp.

“Highway occupancy permit”- means a state, county or local governmental permit depending on the ownership of the street, which, when issued, authorizes connection or access from a lot to that street.

“Home occupation”- means an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit, which, when permitted, does not alter the residential characteristics of the neighborhood. The inability of the proposed use to meet the space limitations or the other requirements for a home occupation shall conclusively establish that such use was not intended to be a home occupation as defined herein. The term does not include a no impact home-based business.

“Hospice”- means a special concept of care designed to provide comfort and support to patients and their families when a life limiting illness no longer responds to cure-oriented treatments.

“Hookah”- includes a tobacco pipe with a long, flexible tube that draws the smoke through water contained in a bowl.

“Hookah lounge”- means an establishment where patrons share from a communal hookah which is placed at each table. The term also includes a place where vapes or smoking occurs on premises for a business purpose.

“Hospital”-means a use involving the diagnosis, treatment or other medical care of humans that may include providing 24-hour emergency service; overnight care of patients; medical research and training; and rehabilitation to patients. A hospital may involve observation, diagnosis, treatment, rehabilitation, or other care for medical, dental, or mental health, but may not include housing of the criminally insane. A hospital may also involve medical research and training for health care professions. A hospital shall meet all relevant licensing requirements of the Commonwealth of Pennsylvania. This term does not include a medical use basically comprised of professional offices for the examination and treatment of persons as outpatients by physicians, dentists, or other

licensed medical specialists, as the use is considered a professional office for purposes of this ordinance. The term also excludes rehabilitation and treatment facilities.

“Hotel”- means a building offering transient lodging accommodations on a daily rate to the public. The building may provide additional services, such as restaurants, meeting rooms, and recreational facilities. See also “Motel”.

“Hub height”- means the distance measured from the surface of the tower foundation to the highest point of the wind turbine hub, to which the blade is attached.

“Impervious surface” or “Impervious coverage” or “Impervious area”- means a permanent surface that prevents the infiltration of water into the ground. Impervious surfaces, includes roads, sidewalks, pavements, parking lots, driveways, roofs, stone and gravel areas, and patios. See also the definition of “Gravel”.

“Improvement”- means any structure or paving placed upon land, including the provision of underground or above-ground utilities, as well as any physical change to the surface of the land, including grading, paving, the placement of stormwater management facilities, sidewalks, street signs, traffic control devices, and monuments. Grading or tilling of soil are not considered an improvement for purposes of this ordinance.

“Industrial hemp production”- means the making or manufacturing of hemp into a product, including food (such as oil, supplement, birdseed, protein flour etc.), fibers (such as textiles, clothes, shoes), fuel, industrial textiles, and products (such as rope, nets, carpet, tarps, paper, building materials etc.), and personal care products (such as soap, beauty products etc.). The term includes the grinding of hemp into flour; the pressing of hemp into seed oil for the manufacturing of products such as personal care products; the taking of the fiber strings running the length of the hemp stalk for the manufacturing of such things as clothing, paper, and other applications; and the taking of the core of the stalk, the inner hurd, a soft cellulose vein running the length of the plant to manufacture such things as insulation and paper. This term does not include the growing, harvesting and processing (cutting, drying, shredding, or packaging) of the hemp plant.

“Institutional group home”- means a use that meets the definition of a group home but that includes a higher number of residents than is permitted as a group home.

“Invasive plant species of Pennsylvania”- means plants that displace naturally occurring native vegetation and, in the process, upset nature’s balance and diversity. Invasive plants are characterized by rapid growth and prolific reproductive capabilities, successful seed dispersal, germination and colonization processes, rampant spreading that takes over native species and are very costly to control. In general, aggressive, non-native plants have no enemies or controls to limit their spread. These invasive plant species are:

- a. Trees: *Acer platanoides*, commonly known as Norway Maple; *Acer pseudoplatanus* commonly known as Sycamore Maple; *Allanthus altissima* commonly known as Tree-of-Heaven; *Elaeagnus angustifolia* commonly known as

Russian Olive; *Populus Alba* commonly known as White Poplar; *Ulmus pumila* commonly known as Siberian Elm; *Viburnum lantana* commonly known as Wayfaring Tree.

b. Shrubs, vines and groundcovers: *Alliaria petiolata* commonly known as Garlic Mustard; *Berberis thunbergii*, commonly known as Japanese Barberry; *Cannabis sativa* commonly known as Marijuana; *Carduus nutans* commonly known as Nodding Thistle; *Cirsium arvense* commonly known as Canadian Thistle; *Cirsium vulgare* commonly known as Bull Thistle; *Datura stramonium* commonly known as Jimsonweed; *Elaeagnus umbellata*, Autumn Olive; *Euonymus alatus*, commonly known as Winged Euonymus; *Galega officinalis* commonly known as Goatsrue; *Heracleum mantegazzianum* commonly known as Giant Hogweed; *Ligustrum vulgare*, commonly known as European Privet; *Lonicera japonica*, commonly known as Japanese Honeysuckle; *Lonicera maackii*, commonly known as Amur Honeysuckle; *Lonicera morrowii*, commonly known as Morrow's Honeysuckle; *Lonicera tatarica*, commonly known as Tartarian Honeysuckle; *Lonicera x-bella*, commonly known as Hybrid Honeysuckle; *Lythrum salicaria*, commonly known as Purple Loosestrife (herbaceous); *Microstegium vimineum* commonly known as Japanese Stiltgrass; *Morus Alba*, commonly known as White Mulberry; *Morus rubra*, commonly known as Red Mulberry; *Phyllostachys aubea* Bamboo; *Polygonum perfoliatum* commonly known as Mile-A-Minute Vine; *Pueraria lobata* commonly known as Kudzu-vine; *Rhamnus cathartica*, commonly known as Common Buckthorn; *Rhamnus frangula*, commonly known as Glossy Buckthorn; *Rosa multiflora*, commonly known as Multiflora Rose; *Sorghum bicolor* commonly known as Shattercane; *Sorghum halepense* commonly known as Johnson Grass; and *Viburnum opulus*, commonly known as European Highbush Cranberry.

“Junk”- means any discarded or salvageable material or article, including scrap metal, paper, machinery, equipment, rags, glass, appliances, furniture, rubber, motor vehicles, and any parts of motor vehicles.

“Junk vehicle”- includes any vehicle unable to move under its own power or is unlicensed or unregistered, and contains one or more physical defects or characteristics such as a broken windshield, missing or flat tires, missing body parts, body parts that are rusted or have sharp edges, exposed battery acid, leaking gasoline or fluids, and other defects or characteristics which could threaten the public health, safety and welfare.

“Junk yard” or “Salvage yard”- includes the dismantling or wrecking of automobiles, motor vehicles, trailers, or parts thereof; the storage or accumulation of any junk; the storage of more than two junk vehicles; or more than two motor vehicles from which parts have been or are to be removed for reuse or sale. The term includes automobile wrecking yards and automobile salvage yards but not the shredding of vehicles or industrial shredding.

“Land”- includes lot, plot, parcel, and property.

“Landings”- means stairways that may be erected on the exterior of a building, where such facilities are not required to meet the fire code standards or other safety standards.

“Landowner”, “Property owner”, or “Owner”- means the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee authorized under a lease to exercise the rights of the landowner, an authorized officer or member of a partnership, corporation or company, or any other person having a propriety or equitable interest in land or a building.

“Laundry”- means a use at which articles of clothing, uniforms, linens, sheets, blankets, table- cloths, draperies, towels, diapers, and other fabric items are delivered to be cleaned with the use of agents that are generally water soluble.

“Laundromat”- means a self-service business in which patrons clean, or dry clean dry articles of clothing, uniforms, linens, sheets, blankets, tablecloths, draperies, towels, diapers, and other fabric items in machines for a fee.

“Light industrial”- means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The term includes the manufacture of small machine parts, small electronic equipment, and motors. The term does not include any industrial use that is designated as a separate use under the use table in Article 3 of this ordinance.

“Loading space”- means an off-street space or area having direct usable access to a street or alley suitable for the loading or unloading of goods for shipment without the use of a street, right-of-way, or parking space.

“Lot”- means a piece or parcel of land established as a lot of record by a plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit occupied or intended to be occupied by a building, structure or use and having frontage on a public or private street. The area and depth of a lot shall be measured to the legal right-of-way line of the street. The word lot includes plot, parcel, land, and property.

“Lot area”- means the area contained within the lot lines of a lot, excluding any street right-of-way.

“Lot, corner”- means a lot abutting on and at the intersection of two or more streets. The point of intersection of the street lot lines is the corner.

“Lot coverage”- means the percentage multiplied by the lot area that will determine the permitted building coverage area.

“Lot depth”- means the average horizontal distance between the front and rear lot lines.

“Lot, flag”- means a lot that relies upon a thin strip of land for street access whose frontage does not satisfy the minimum width requirements for the respective zoning district but has the required lot width away from the street frontage.

“Lot, interior”- means a lot with only one street frontage.

“Lot line”- means a line dividing one lot from another lot or from a street or alley.

“Lot line, front”- means a property line the length of which abuts a street or proposed street.

“Lot line, rear”- means a line dividing one lot from another lot or from a street or alley. It is the line opposite and most distant from the front lot line.

“Lot line, side”- means any lot line other than a front or rear lot line.

“Lot of record”- means any lot which exists as shown or described upon a plat, or deed and recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania.

“Lot, through or reverse frontage”- means an interior lot having frontage on two parallel or approximately parallel streets with vehicular access solely from the street of lesser functional classification.

“Lot width”- means the horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated or as may be specified in this ordinance. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to two-thirds of the width that would otherwise be required (except where minimum lot width allowed is less than 100 feet then no reduction is allowed). In the case of flag lots, the width measurement shall not include the access corridor but shall be made on the main portion of the lot.

“Machine shop”- means any facility that uses machine tools, including lathes, milling machines, shapers, planers, hoppers, drill presses, and jig borers for working with metals or other relatively hard materials, such as some polymers. Typically, a machine

shop makes and repairs all types of metal objects, from machine tools, dies, and molds to mass-produced parts such as screws, pistons, or gears.

“Manufactured home”- means a structure, transportable in one or more sections, which is built upon a chassis and is designed for permanent occupancy when placed on a foundation and connected to the required utilities. The term includes mobile homes and trailers but does not include modular homes or recreational vehicles.

“Manufactured home community”- means a parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes or mobile homes.

“Manure”- means the fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding, or litter.

“Manure storage facility”- means a detached structure or other improvement built to store manure for future use or awaiting disposal.

“Massage”- means the performance of manipulative exercises using the hands, or a mechanical or bathing device on a person's skin other than the face or neck by another person that is related to certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.

“Massage services”- means an establishment that meets the following criteria:

- a. Massages are conducted;
- b. The person conducting the massage is not licensed as a health care professional or physical therapist by the Commonwealth of Pennsylvania;
- c. The massages are not conducted by a licensed medical doctor, chiropractor or physical therapist;
- d. The massages are conducted within private or semi-private rooms; and
- e. The use is not clearly a customary and incidental accessory use to a permitted wellness and fitness center or athletic program.

A use that involves state-licensed massage therapists is listed as a separate use in the use table of Article 3 under this ordinance.

“Medical facility”- means a use involving the diagnosis, treatment and examination of patients by State-licensed members of the medical profession, dentists, chiropractors, osteopaths, physicians or occupational therapists without overnight accommodations and may include reception areas, offices, waiting room, x-ray and minor operating rooms and a dispensary of medication other than medical marijuana, methadone, and suboxone and providing that all such uses have access only from the interior of the building. The use does not include a treatment facility or hospital. A medical facility with five or more licensed medical professionals shall be considered a health care outpatient facility.

"Medical marijuana"- means marijuana for certified medical use under the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016.

"Medical marijuana academic clinical research center"- means an accredited medical school that operates or partners with an acute care hospital licensed under Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016, as amended.

"Medical marijuana delivery vehicle office"- means any facility used to store delivery vehicles for supplying marijuana plants or seeds to a grower and processor facility or a medical marijuana dispensary.

"Medical marijuana dispensary"- means a person, which holds a permit issued by the DOH to dispense medical marijuana.

"Medical marijuana facility"- means a medical marijuana dispensary or a grower and processor of medical marijuana. The term includes a structure, building or land used to store trucks or delivery vehicles for transporting marijuana plants, seeds or other raw materials, or transporting waste generated from a medical marijuana facility for disposal to a facility authorized in the Commonwealth of Pennsylvania to accept such waste. Incidental storage, management and disposal of solid and liquid waste byproducts or remnants generated during the growing and processing of medical marijuana, but not part of the final product, is permitted as part of the facility.

"Membership club"- means an area of land or building used by a recreational, civic, social, fraternal, religious, political, or labor union association of persons for meetings and routine socializing and indoor recreation that are limited to members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the public. This use does not include outdoor recreation, boarding or rooming houses, tavern, bar, night club, restaurant, or auditoriums unless that particular use is permitted in that district and the requirements of that use are met. The term includes a social hall.

"Meteorological tower"- means a tower used for the measurement of wind speed.

"Micro-brewery"- means a facility where more than 25 barrels and less than 15,000 barrels (a barrel is approximately 31 gallons) of malt or brewed beverages are produced on the premises and then sold or distributed for off premises consumption. A microbrewery may also contain a brewery pub. The production of more than 15,000 barrels, or its equivalent of malt or brewed beverages shall be considered a heavy industrial use.

"Mineral extraction"- means the removal from the surface or beneath the surface of land bulk mineral resources such as sand, gravel, topsoil, limestone, sandstone, coal, shale, and iron ore using machinery. This use includes stockpiling, but not the movement of and replacement of topsoil, as part of construction activities. The use does not include oil or gas operations. The backfilling of a site with material other than with material from the site shall be considered a solid waste facility when the operator is

being paid to accept the material or the site is being reclaimed with off-site material manufactured on site.

“Modular homes”- mean structures constructed entirely in factories and transported to their sites on flatbed trucks built under controlled conditions and meeting strict quality-controlled requirements before delivery. A modular home typically arrives as block segments that are neatly assembled, using cranes, into dwelling units that are almost indistinguishable from comparable ones built on-site.

“Moral”- means of, pertaining to, or concerned with the principles or rules of right conduct or the distinction between right and wrong (ethical).

“Motel”- means a building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. The building or group of buildings is designed, intended, or used primarily for the accommodations of automobile travelers for gain or profit and provides automobile parking conveniently located on the premises. See also “Hotel”.

“Motor vehicle”- means an automobile, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle, or similar means of transportation powered by an engine or other mechanized means and designed to operate and carry persons or cargo on public streets.

“Municipal engineer”- means the person appointed by the Black Creek Township Board of Supervisors to provide engineering and professional consulting services.

“Municipal planning commission or committee”- means the Black Creek Township Planning Commission or Planning Committee, whichever is in effect at the time.

“Municipal solicitor”- means the person or law firm appointed by the Black Creek Township Board of Supervisors to provide legal services and advise the Black Creek Township Board of Supervisors.

“Municipality” or “Municipal”- means the political subdivision of Black Creek Township, Luzerne County, and Pennsylvania.

“Municipalities planning code (Pa PMC)”- means the Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247, as reenacted and amended.

“Natural gas processing plant”- means a facility that receives natural gas and associated hydrocarbons from a gathering line system serving one or more well sites that compresses, condenses, pressurizes or otherwise treats natural gas and which removes or separates materials such as ethane, propane, butane, and other constituents or similar substances from natural gas allows such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, including cooling facilities, storage tanks and related equipment and facilities.



“Nature preserve”- means a noncommercial preservation of land for providing wildlife habitats, forests or scenic natural features that involves no buildings other than a nature education or study center and customary maintenance buildings.

“Night club”- means a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and live music are permitted, including the term “cabaret”. This term does not include any adult use.

“Nonconforming lot”- means a lot which does not conform with the minimum lot width or area dimensions specified for the zoning district where the lot is located but was lawfully in existence prior to the effective date of this ordinance, or any amendments thereto.

“Nonconforming structure”- means a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include nonconforming signs.

“Nonconforming use”- means a use, whether of land or a structure, which does not comply with the applicable use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

“Non-participating landowner”- means any landowner except those on whose property all or a portion of a wind energy facility is located under an agreement with the owner or operator.

“No-impact home based business”- means a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with the residential use.

“Noxious weeds”- means any plant listed in the Pennsylvania Noxious Weed Control Law (3 P.S. Section 255(3)(b) or any amendments), including:

- a. Cannabis sativa, commonly known as marijuana (except when permitted as part of a licensed medical marijuana facility).
- b. The Lythrum salicaria Complex: Any nonnative Lythrum, including, Lythrum salicaria and Lythrum virgatum, their cultivars and any combination thereof.
- c. Cirsium arvense, commonly known as Canadian thistle.

- d. *Rosa multiflora*, commonly known as multiflora rose.
- e. *Sorghum halepense*, commonly known as Johnson grass.
- f. *Carduus nutans*, commonly known as musk thistle.
- g. *Cirsium vulgare*, commonly known as bull thistle.
- h. *Datura stramonium*, commonly known as jimson weed.
- i. *Polygonum perfoliatum*, commonly known as mile-a-minute.
- j. *Puerria lobata*, commonly known as kudzu vine.
- k. *Sorghum bicolor* cv. *drummondii*, commonly known as shattercane.
- l. *Heracleum mantegazzianum*, commonly known as Giant Hogweed.
- m. *Galega officinalis*, commonly known as Goatsrue; and poison ivy.

“Nursery”- means land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock and their related accessory supplies for wholesale or retail sale.

“Nursing home”- means a place for older adults of more than three persons who do not need hospital care but cannot be cared for at home because of old age, illness, or physical disability. Residents require supervision or assistance of more than 24 hours seven days a week 24 hours a day. A nursing home provides a higher level of care than a personal care home. Nursing homes are licensed and inspected by the Department of Human Services, but under a different set of standards than a personal care home.

“Occupied”- includes a building, structure or land being used or intended, arranged, or designed to be used by a person.

“Occupied building”- means a structure where a person lives or works or a place where people publicly gather.

“Oil and gas operations”- includes an:

- a. Ancillary facility of oil or gas development;
- b. Oil or gas compressor station (which is treated as a separate use under this ordinance).
- c. Hydraulic fracturing water withdrawal facility;

- d. Hydraulic fracturing water treatment facility;
- e. Oil or gas development;
- f. Oil or gas metering stations;
- g. Oil or gas pipelines not located in a public-right-of-way;
- h. Oil or gas processing facility;
- i. Oil or gas staging facility;
- j. Oil or gas water reuse storage facility;
- k. Oil or gas well;
- l. Oil or gas well site;
- m. Oil or gas well pad;
- n. Fresh water impoundment; or
- o. Wastewater impoundments.

“Oil and gas compressor”- means a device used alone or in series to raise the pressure of oil or natural gas or by-products to create pressure differential to move or to compress liquid, vapor, or gas.

“Oil and gas compressor station”- means a facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells and to operate as an upstream or midstream facility for delivery of oil and gas to transmission pipeline, distribution pipeline, natural gas processing or treatment facility or underground storage field.

“Operator”- means a person responsible for the day-to-day operation and maintenance of a solar energy system, wind energy facility or oil or gas operation.

“Open space”- means any area of land or water, or a combination of land and water, within a development or lot that is free of improvement and impervious surfaces. Open spaces do not include areas devoted to buildings, structures, driveways, access drives, parking lots, street rights-of-way, and storm water detention basins, but include required yard setbacks.

“Ordinance”- means the Black Creek Township Zoning Ordinance of 2024 and the Black Creek Township Official Zoning Map, as may be amended from time to time.

“Outdoor storage”- includes the placing, storing, or keeping, in an unenclosed area, goods, materials, merchandise, equipment or vehicles which are related to the operation of a commercial use, excluding the storage of solid waste, hazardous substances, refuse, junk and junked vehicles.

“Outparcel”- means a building lot separated or separable from another building lot.

“Overlay district”- means a specific geographic area upon which additional land use requirements are applied, on top of the underlying zoning regulations, to promote a specified goal. An overlay zoning district may encompass one or more underlying zoning districts and imposes additional requirements above that required by the underlying zone. This ordinance includes a WTO Wind Turbine Overlay District.

“Parking space, off-street”- means an unobstructed space or area other than a street or alley that is located completely within the property lines of a property and permanently reserved and maintained for the parking of a motor vehicle.

“Parking space, on-street”- means the parking of a vehicle on the street, along a sidewalk or anywhere on the street whether by permit or under and subject to certain restrictions.

“Participating landowner”- means a landowner upon whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator. It may also include any landowner having signed a lease, easement or waiver with the owner or operator of a PWEF.

"Patient"- means an individual who:

- a. Has a serious medical condition;
- b. Has met the requirements for certification under the Pennsylvania Medical Marijuana Act; and
- c. Is a resident of the Commonwealth of Pennsylvania.

“Paved”- means a condition or surface in which man-made materials (asphalt, bituminous concrete, or masonry materials) are applied resulting in a durable, smooth, stable and dust free surface over which vehicles and pedestrians may pass. This definition requires that the permitted materials be applied with sufficient depth and base to achieve the required durable, smooth, stable and dust free surface.

“Pawn shop”- means a commercial use that is regulated as a pawn shop by the Pennsylvania Department of Banking.

“Permit”- means the official document issued by the zoning officer authorizing someone to undertake certain activities under this ordinance.

“Permitted use”- means an allowed use permitted by right with or without the issuance of a permit (depending on the use and the requirements of this ordinance) by the zoning officer provided the application meets the requirements of this ordinance. The use will find classification under the heading “P” for the zoning district in which the property is located.

“Person”- includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship or individual.

“Personal care home”- means a premise licensed by DHS in which food, shelter and personal assistance or supervision are provided at all times in case of an emergency, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living such as housekeeping and laundry, medication management, shopping and meal preparation, using the telephone, making appointments, eating, toileting, personal hygiene, and bathing. Although a nursing home provides many of the same assistance as a personal care home, senior needs in a personal care home do not meet the higher level of services provided in a nursing home.

“Personal service establishments”- means an establishment or business where personal services are provided for profit or gain and where the sale of retail goods, wares, merchandise, articles or things is only accessory to the provisions of such services such as barber shops or beauty salons; tailor shops; laundry or dry-cleaning shops; laundromats; printing, photocopying, mail, fax or courier services; and shoe or watch repair shops; animal grooming; tanning salons; beauty spas; manicure and pedicure services; and similar services. The term does not include any service use that is designated specifically as a separate use in the use table under Article 3 of this ordinance.

“Petroleum product”- means oil or petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

“Physical therapy”- means a health care profession primarily concerned with the remediation of impairments and disabilities and the promotion of mobility, functional ability, quality of life and movement potential through examination, evaluation, diagnosis, and physical intervention carried out by physical therapists.

“Place of worship”- means a building used for religious services, including churches, synagogues, mosques, monasteries, meeting houses, temples, parish halls, seminaries, and shrines. The term also includes accessory uses such as a residence for a caretaker or the head of congregation, assembly hall used for community events, nursery school, a school of religious education, convent, and rectory.

“Playground” or “Park”- means an outdoor area providing a place for recreation without having to pay a fee where children typically play and that contains commercial

play structures such as swings and slides, site amenities (benches, picnic tables, grills and trash receptacles) and surfacing, volleyball, handball, basketball or tennis courts. The term does not include baseball, basketball, football, or soccer fields, or skateboard areas, which shall be considered outdoor recreation.

“Portable storage containers (POD)”- includes portable containers that are used for temporary storage of personal property of occupants on the site during times of transition (e.g. remodeling, moving, construction, or emergency).

“Premises”- means any tract, lot, or parcel of land and the buildings, fixtures, and appurtenances located thereon. The word includes lot, plot, parcel, property, and premises.

“Principal wind energy facility (“PWEF”)- means a system of one or more wind turbines, which may include other accessory structures and buildings, appurtenant structures, and facilities, designed as a principal use on a lot, wherein the power generated is used primarily for off-site consumption.

“Private”- means something owned, operated and supported by private persons rather than by government, and not available for public use.

“Private garage”- means a building or structure for the private use of the owner or occupant of a principal building situated on the same lot for the storage of motor vehicles used or owned by the owner or occupant with no commercial facilities for mechanical service or repair.

“Professional consultant”- means someone who provides expert or professional advice, including, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

“Professional office”- means a building or portion of a building not a dwelling unit, wherein services are performed by surveyors, architects, landscape architects, professional engineers, lawyers, or other similar professional consultants holding a professional license. The term excludes a medical facility where medical offices are provided for the examination and treatment of persons as outpatients by physicians, physical therapists, dentists, doctors, optometrists, chiropractors, or other licensed medical specialists.

“Property”- means land and the buildings, fixtures, and appurtenances located thereon. The word includes lot, plot, parcel, and premises.

“Principal solar energy system (PSES)”- means an area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory

structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

“Principal use, structure or building”- means the main or primary use of land or structures, as distinguished from, or opposed to a secondary or accessory use or structure.

“Public”- means something owned, operated and supported by the government for the use and benefit of the public.

“Public governmental use”- means a public building or land owned or operated by local, state, or federal government for such uses as a library, courthouse, employment office, post office, administrative, cultural, or service buildings or other use for governmental administration excluding public land, buildings and structures primarily devoted to the storage and maintenance of equipment and materials.

“Public hearing”- means a formal meeting held pursuant to public notice by the governing body or zoning hearing board, which is intended to inform and obtain public comment prior to action in accordance with this ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

“Public meeting”- means a forum held pursuant to public notice under the Pennsylvania Sunshine Act.

“Public notice”- means notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

“Public sewer”- means a municipal sanitary sewer or a comparable common or package sanitary facility capable of serving multiple users and approved and permitted by the Pennsylvania Department of Environmental Protection (DEP).

“Public transmission tower”- means a structure, owned, and operated by a public utility electrical company regulated by the Pennsylvania Public Utility Commission (PUC), designed, and used to support overhead electricity transmission lines.

“Public utilities”- means a use which is operated, owned, or maintained by a municipality or municipal authority or which is privately owned and requires a Certificate of Convenience approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal or treatment; public water supply, storage or treatment; or for the purpose of providing the transmission of energy or telephone service. Public Utilities includes water, electrical, natural gas, telephone services, and other essentials. See also Essential Public Utility Services.

“Public water”- means a municipal water supply system, or a comparable common water facility approved capable of serving multiple users and permitted by the Pennsylvania Department of Environmental Protection (DEP).

“Quasi-public”- means entities that operate like (and are sometimes organized as) private organizations and are run by a board of directors or similar arrangement whose members are appointed by government entities.

“Recharge”- means the replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

“Recreation”- means the offering of leisure-time activities to unrelated persons.

“Recreation, indoor”- means a building or structure used principally for recreational activities, such as a bowling alley, billiard hall, roller skating or ice-skating rink or similar facilities. This term does not include outdoor recreational activities, shooting ranges, adult uses or restaurants/taverns. Outdoor recreation activities conducted completely within a building shall be considered indoor recreation for purposes of this ordinance.

“Recreation, outdoor”- means the use of land or structures for recreational activities such as amusement parks, racetracks, shooting ranges, and similar activities. The term does not include a playground or park.

“Recreational Cabin, Private”- means a building that:

- a. Will be utilized for private recreational activities only.
- b. Will not be utilized as a domicile or residence by the property owner or any other person at any time.
- c. Will not be used for any commercial purposes.
- d. Will not exceed two stories in height (excluding the basement, if any).
- e. Will not be used as a place of employment.
- f. Will not be a mailing address for bills or correspondence.
- g. Will not be listed as any individual's place of residence on a tax return, driver's license, vehicle registration or voter registration.
- h. All on-lot sewage handling and disposal shall comply with the Pennsylvania Sewage Facilities Act (Act 537).
- i. Minimum lot size shall be .5 acres.



"Recreational vehicle (RV)"- means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use. The term includes motor homes, pop-up trailers, and campers.

"Recycling collection center"- means an area for collection and temporary storage of more than 500 pounds of common household materials for recycling, but that does not involve processing or recycling other than routine sorting, baling, and weighing of materials. This term may not include the indoor storage of less than 50 pounds of household recyclables and their customary collection, which is a permitted accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted accessory use to a public or private primary or secondary school, or a place of worship.

"Rehabilitation facility"- means a use offering facilities for persons who need specialized housing, treatment, or counseling and who need such facilities because of:

- a. Criminal rehabilitation, such as criminal halfway house or a treatment or housing center for persons convicted of driving under the influence of alcohol; or
- b. Addiction to alcohol or a controlled substance; or
- c. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

The residentially based facility may include overnight stays with room and board, personal care, and intensive supervision and case work for up to 30 people.

"Related" or "Relative"- means persons who are related by blood, marriage, adoption, civil union or formal foster relationship to result in one of the following relationships: husband, wife, brother, sister, parent, child, grandparent, great grandparent, grandchild, great grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law or first cousin. The term does not include relationships such as second, third or more cousins.

“Repair”- means to fix or rehabilitate an object or structure to its intended condition or function.

“Residentially zoned”- means for purposes of this ordinance a lot zoned either R-1 or R-2.

“Restaurant”- means an establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in indispensable containers, and where the customer consumes these foods while seated at tables or counters located on premises. A restaurant may include the sale of alcoholic beverages for consumption on premises as an accessory use. This use may include drive thru facilities when permitted by this ordinance.

“Restaurant, take-out”- means any establishment that primarily serves ready to eat food and beverages for consumption off the premises.

“Restrictive covenant”- means a provision in a document recorded in the Luzerne County Recorder of Deed’s Office limiting or prohibiting the use of property.

“Retail sale establishments”- means an establishment selling products as opposed to services or entertainment to the general public, such as antique shop; appliance store; artist, music, and automotive parts store; beverage packaging store; building or plumbing supplies; crafts and hobby supplies; clothing store; dairy products store; dry goods and variety stores; florist; garden supplies; hardware store; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography store; pet store; pharmacy; specialty gifts; sporting goods store; and other establishments selling related products. The term does not include any retail use that is specifically designated as a separate use in the Use Table under Article 3 of this ordinance such as an adult use, secondhand store, pawn shop, and wholesale establishment.

“Retaining wall”- means a structure designed to restrain soil or used to stably contain land at a location with an elevation change.

“Retirement community”- means a residential development limited exclusively to persons aged 55 years and older, their spouses and family members.

“Right-of-way”- means an area or strip of land secured for public use whether improved or unimproved and reserved for use as a street, railroad, public utility, private utility, or other special uses such as sidewalks, stormwater management facilities, traffic control facilities, curbs, sidewalks, bicycle lanes or paths, streetlights, and similar public improvements.

“Riparian buffer”- means a permanent area of trees and shrubs located adjacent to streams, lakes, ponds, and wetlands.

“Road” or “Street”- means that portion of a right-of-way improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

“Rooming house”- means a building or structure or any portion thereof containing residential rooming units rented or leased for a specified period of more than seven days, or on a week to week, month to month or year to year basis, with the occupants of said units being non-transient, and utilizing the location as their domicile along with the landowner.

“Rotor”- means that portion of the wind turbine, i.e. blades and associated hub and shaft, which is intended to be moved or activated by the wind.

“Sale”- includes the business or activity of selling or renting goods or services.

“Satellite dish antenna, noncommercial”- means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device is intended to be used to transmit or receive radio or electromagnetic waves between terrestrial and orbital based uses. This term includes satellite earth stations, television reception antenna, satellite microwave antennas and the like. This term does not apply to any antenna used for reception of regular AM-FM signals.

“Sawmill”- means a principal use devoted to the processing of natural wood products into semi-finished products for wholesale distribution.

“School”- means any facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, middle schools, junior high schools, charter schools, special education facilities, high schools, colleges, and universities. This term does not include childcare centers and adult care centers.

“Screening”- means the method by which a view of one lot from another adjacent lot is shielded, concealed, or hidden. Screening techniques include fences, walls, non-invasive species of hedges, shrubs, trees or natural forest, berms, and other features, as provided for and required in this ordinance. The planting or maintaining of invasive plant species of Pennsylvania or noxious weeds are strictly prohibited.

“Secondhand store”- means an establishment selling used products as opposed to new products to the public whether acquired by consignment or otherwise.

“Seeps” or “Springs”- means areas where groundwater intersects at or near to the ground surface either seasonally or permanently. Springs involve groundwater reaching the surface at a specific point, while seeping involves a more widespread area. These areas may or may not be considered wetlands under federal law. Hydrophytic vegetation is often dominant.

“Self-storage facility”- means a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to persons for the storage of the person’s personal property.

"Serious medical condition"- means any of the following (which may be changed from time to time by state law, rule, or regulation):

- a. Amyotrophic Lateral Sclerosis.
- b. Anxiety disorders.
- c. Autism.
- d. Cancer.
- e. Crohn's Disease.
- f. Dyskinetic Disorders.
- g. Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.
- h. Epilepsy.
- i. Glaucoma.
- j. HIV or AIDS.
- k. Huntington's Disease.
- l. Inflammatory Bowel Disease.
- m. Intractable Seizures.
- n. Multiple Sclerosis.
- o. Neurodegenerative Disorders.
- p. Neuropathies.
- q. Opioid Use Disorder.
- r. Parkinson's Disease.
- s. Post-traumatic Stress Disorder.
- t. Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective.

- u. Sickle Cell Anemia.
- v. Terminal Illness.
- w. Tourette syndrome.

“Setback”- means the required minimum horizontal distance between the building line and the related front, side, or rear property line.

“Sewage disposal system”- means a system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, state, and federal requirements. The types of sewers for purposes of this ordinance are:

- a. “Public sewer service”- means sewer service at the time of occupancy of a use by a central sewage treatment plant that is owned by a municipality, municipal authority, or other entity.
- b. “On-lot sewer service”- means any form of sewage service permitted under local, state, and federal law that does not meet the definition of public sewer service.

“Sewage sludge”- means the treated, conditioned, digested accumulated, settled solid deposited by sewage treatment processes that occur within the requirements of a state or federal environmental pollution or on-lot septic system permit. This may only include substances adequately stabilized so that they are suitable for land application.

“Shadow flicker”- means alternating changes in light intensity caused by a moving wind rotor blade casting shadows on the ground or stationary objects.

“Shooting Range”- means a firing range with targets for firearm practice, or an area designed and used for archery or sport shooting, including various types of firearms.

“Shopping center”- means a building or group of two or more units within a single building, which is comprised of commercial, retail or service-oriented businesses and designed to function as a unit with shared vehicular access, off-street parking, and signage. The term includes a strip mall type building where stores front on both sides of a pedestrian way which may be either enclosed or open.

“Short-term rental”- means any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 60 days on more than one occasion to someone other than a family member of the landowner where the landowner may or may not reside in the dwelling unit during the rental. The term does not include a hotel, motel or short- term transient rental.

“Shredding, industrial”- means a facility consisting of a heavy-duty machine or piece of equipment used as a high-volume system to reduce the size of a given material for recycling, re-use, or re-introduction into the manufacturing process.

“Site”- means a lot or any part of a lot devoted to a specific use regulated under this ordinance.

“Slaughterhouse”- means a use that routinely involves the killing and butchering of animals for use as meat, and which is not a customary accessory use to the on-site raising of animals.

“Slope”- means the vertical increase in height of ground level, divided by the horizontal length of that area of ground, measured in percentages.

“Smoke shop”- means a store predominately or principally selling tobacco products such as cigars, cigarettes, and chewing tobacco and accessory tobacco products. The term includes vapes but does not include permitting smoking or vaping on premises.

“Social hall”- means a building or portion thereof used for social gatherings, which is usually operated by a nonprofit or civic organization or association.

“Solar array”- means a grouping of multiple solar modules with the purpose of harvesting solar energy.

“Solar cell”- means the smallest basic solar electric device which generates electricity when exposed to light.

“Solar easement”- means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

“Solar energy”- means radiant energy (direct, diffuse and/or reflective) received from the sun.

“Solar energy development area”- means the total area of a major energy system that encompasses the principal and accessory structures that are part of the solar energy system, as well as all substations, inverters, and any other supporting equipment. This area shall also include all access drives providing access to a public road, buffer yards or screening, utilities, and stormwater management facilities.

“Solar energy fenced area”- means the total area of the solar energy development area that encompasses the principal and accessory structures that are part of the solar energy system, as well as all substations, inverters and any other supporting equipment that are enclosed by the required fencing. This area shall not include any access drives providing access to a public road, buffer yards/screening, utilities or stormwater management facilities located outside of the required fencing.

“Solar module”- means a grouping of solar cells with the purpose of harvesting solar energy.

“Solar panel”- means that part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating or electricity.

“Solar related equipment”- includes items such as a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

“Solid waste”- means any garbage, refuse, sewage sludge or other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, public, household, commercial or mining activities. The following materials are not considered solid waste:

- a. Portions of trees or shrubs, leaves, mulch, and rocks;
- b. Substances legally disposed of into the air or water through a federal or State pollution discharge permit;
- c. Customary residual wastes from a permitted mineral extraction use; or
- d. Materials of a character such as paper, plastic, aluminum, and metal that have been separated from the waste stream for recycling.

“Solid waste facility”- means a facility operated under the laws of the Commonwealth of Pennsylvania governing the management, processing, incinerating, treatment, storage, transfer, or disposal of solid waste. Back filling or reclaiming of a site with off-site material for a fee or accepting payment for off-site material used to manufacture material to be filled at the site shall constitute a solid waste facility for purposes of this ordinance. This term includes solid waste landfills, solid waste transfer facility, and solid waste energy facility.

“Solid waste energy facility”- means a type of solid waste disposal facility that utilizes waste (such as trash, sludge or any other nonhazardous commercial, residential, or industrial materials) as a fuel to produce usable energy (such as steam or electricity) in bulk to be marketed for reuse to offset disposal costs. Also see the definitions of each of these terms in Title 25 of Pennsylvania Department of Environmental Protection (DEP) regulations.

“Solid waste transfer facility”- means a type of solid waste disposal facility which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal, and which may or may not involve the separation of recyclables from solid waste. Also see the definitions of each of these terms in Title 25 of Pennsylvania Department of Environmental Protection (DEP) regulations.

“Spa” or “Hot tub”- means a structure intended for the immersion of persons in temperature- controlled water circulated in a closed system, and not intended to be

drained and filled with each use. A spa usually includes a filter, a heater (electric, solar, or gas), a pump or pumps, and a control, and may also include other equipment, such as lights, blowers, and water sanitizing equipment. For purposes of this ordinance the spa is intended for use that is accessory to a residential use and available to the household and its guests and where the water heating and water circulating equipment is not an integral part of the principal structure on the property. The spa is intended as a permanent plumbing fixture and not intended to be moved.

“Special exception”- means a specific use only permitted in a zoning district with the approval of the zoning hearing board in accordance with the applicable provisions of this ordinance. The use will find classification under the heading “S” for the zoning district in which the property is located.

“Specified anatomical areas”- includes less than completely and opaquely covered human genitals, private parts, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Stable”- means the housing of horses, including a commercial or private riding academy.

“State”- means the Commonwealth of Pennsylvania.

“Storage”- means the temporary placement of products and materials for preservation, later use or disposal.

“Story”- means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story if the ceiling equals or exceeds six and one-half feet of the finished ground surface adjoining the exterior walls of such story.

“Stream”- means any natural or man-made conveyance of surface water with an annual or intermittent flow within a defined bed and bank.

“Street”- includes any right-of-way, avenue, court, boulevard, road, highway, alley, freeway, lane, viaduct, and any other ways used or intended to be used by vehicular or pedestrian traffic whether public or private or dedicated or undedicated.

“Street line” or “Right-of-way line”- means the line defining the limit of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the legal right-of-way line currently in existence.

“Street types”- includes:

- a. “Arterial street”- means a street designed to carry large volumes of through-traffic for the connection of residential areas and for circulation



outside residential areas. Access onto these streets is normally controlled by stop signs restricting on-coming traffic and traffic signals.

b. “Collector street”- means a street designed to carry moderate volumes of traffic between local streets and arterial streets, and usually provides only limited vehicular access to abutting properties. Traffic on these streets is normally controlled by signs.

c. “Local street”- means a street designed to carry low volumes of traffic and provide direct access from abutting properties to collector and arterial streets.

“Structural alterations”- includes any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

“Structure”- means any man-made object, the use of which requires an ascertainable stationary location on land, whether it is affixed to the land or on water.

“Student”- means a person who is registered to be enrolled or who is enrolled and matriculating at an accredited college or university or primary or secondary school, or who is on a semester or summer break from studies at a college or university.

“Student housing”- means a building which contains a dwelling unit occupied by two or more students who are not related to each other by adoption or marriage or are not the great-grandparent, great-grandchild, grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece, nephew, great uncle, great aunt, great nephew, or great niece of each other.

“Subdivision and land development ordinance (SALDO)”- means the Black Creek Township Subdivision and Land Development Ordinance, as amended.

“Subsurface sewage disposal areas”- means underground systems that treat and disperse wastewater from individual or small numbers of homes.

“Surface waters”- means perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.

“Swimming pool”- means an accessory use involving any structure and inflatable device used for swimming, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than 24 inches. Hot tubs and spas shall be considered a swimming pool for the purposes of this ordinance; however, ponds, stormwater basins, and lakes are not included since swimming is not the primary purpose for the use.

“Swimming pool, above-ground”- means a pool situated on the ground which can be disassembled for storage or transport. This term includes portable pools with flexible or nonrigid walls that achieve their structural integrity by means of uniform shape, support frame or a combination thereof, and can be disassembled for storage or relocation.

“Swimming pool barrier”- means a permanent wall that surrounds an above-ground swimming pool and obstructs access to the swimming pool. The wall may include the wall of the swimming pool or the wall of a building. Permanent for purposes of this definition means that it is not able to be removed, lifted, or relocated without the use of a tool.

“Tavern”- means an establishment used primarily for serving alcoholic, malt, or brewed beverages to the public where food or prepackaged liquors may be sold or served as an accessory use. The term does not include a bar but includes a brewery pub.

“Temporary structure”- means a structure without any foundation or footings which is removed when the designated time-period, activity or use for which the structure was placed or constructed has ceased. Temporary structure shall be not more than 180 days.

“Temporary use”- means a use established for a fixed period with the intent to discontinue such use upon the expiration of the time-period. Temporary use shall not be more than 180 days unless extended by the zoning officer when permitted under this ordinance. Any use for less than 180 days but resuming on an annual basis shall be considered a permanent use.

“Theatre”- means a building or part of a building devoted to showing motion pictures or theatrical or performing arts productions as a principal use but not including an outdoor drive-in theatre or adult use.

“Tiny house”- means a principal residential detached dwelling unit that has a total floor area of 400 square feet or less.

“Tower”- means the supporting structure of a wind turbine on which a rotor and accessory equipment are mounted. The basic types of towers include self-supporting (free standing) or guyed.

“Townhouse”- means one dwelling unit that is attached to two or more dwelling units in a row, and with each dwelling unit being completely separated from and attached to each other by unpierced vertical fire-resistant walls and each having their own outside access with sidewalls being adjacent to each end unit.

“Tract”- means the combination of lots in common ownership that are submitted to be approved together as part of a single subdivision or land development.

“Treatment facility”- means a use that primarily exists to provide medication (such as methadone) or repetitive counseling to multiple persons with addictions to illegal use of controlled substances as a principal use, and which does not include on-site residential facilities or allow for overnight stays such as a rehabilitation facility under this ordinance, and which is not licensed by the Commonwealth of Pennsylvania as a hospital.

“Tree farm”- means an area used for a type of farming involving the raising or harvesting of trees for commercial purposes.

“Trucking terminal”- means the use of a structure, building, or land, which consists of a storage area, management, and dispatch office, and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

“Truck service center, repair and storage”- means a use that primarily involves providing fuel and repairs to tractor-trailers, including incidental storage of tractor-trailers.

“Two-family dwelling unit”- means one dwelling unit accommodating one family that is attached to and completely separated by a vertical or horizontal unpierced fire-resistant wall to only one additional dwelling unit with each unit being on the same or a separate lot from the attached dwelling unit. The term includes a twin or duplex.

“Uniform Construction Code (UCC)”- means the version of the statewide building code adopted by the municipality, applicable to new construction in all municipalities whether administered by the municipality, a third party of the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted by the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth. For coordination purposes, references to the above are made specifically to various Sections of the IRC and the IBC.

“Use”- means the purpose, activity, occupation, business or operation for which land, structures or buildings are designed, arranged, intended, occupied, or maintained. Uses specifically include activities within or outside of a structure.

“Variance”- means a waiver or modification of this ordinance that may only be granted by the zoning hearing board.

“Vernal pool”- means areas that are low points topographically and are typically covered by shallow water for an average of two months during normal years, but which may be completely dry for the remainder of the year, and which are not man-made.

“Wall”- means a structure constructed as a line of demarcation or barrier made of materials to enclose or screen areas of land. When referring to the walls of a building, the term shall mean the vertical exterior surface of a building, or the vertical interior surfaces which divide a building’s space into rooms. The term does not include a retaining wall.

“Warehouse and distribution”- means one or more buildings or structures used primarily for storage, transfer and distribution of products, goods, and materials. This term does not include trucking facilities.

“Water system”- means a system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies. The following are the different types of water services:

a. “Central water service”- means a service by a central water system that is owned and operated by a municipality, municipal authority, entity, or water company regulated by the state or the Pennsylvania Public Utility Commission (PUC) and which transmits water from a common source to more than 30 dwellings or principal uses.

b. “Public water service”- means a central water service system owned by a municipality or a municipal authority.

c. “On-lot water service”- means a water system service that does not meet the definition of a central water service, and uses an individual well to serve a lot, or a common well to serve less than 30 dwelling units provided it is approved by the state or the PUC.

“Welding”- means the use of land, or building, or structure where pieces of metal are welded.

“Wellness and fitness center”- means a facility that may be indoor or outdoor that offers educational or interactive programs for health care, health maintenance, wellness, or other health-related subjects, or facilities that may include health spa, weight rooms, exercise rooms, exercise equipment, exercise pools, or other similar exercise club or fitness center facilities, and may offer rehabilitation, therapy, or health maintenance, sports, or physical performance related training programs. The term excludes rehabilitation and treatment facilities.

“Wetlands”- means those areas that are inundated or saturated by the surface or ground water at frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. The term includes wetland areas listed in the State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The National Wetland Inventory, The Pennsylvania Coastal Zone Management Plan, and any wetland area designated by a river basin commission.

“Wholesale establishment”- means an establishment that offers products to other businesses to resell rather than selling directly to retail customers. Wholesalers can be small-scale producers who choose to distribute their products through other businesses, or they can be multi-state distributors with fleets of trucks and massive warehouses.

“Wind energy conversion system (WECS)”- means a machine designed for the purpose of converting wind energy into electrical energy (commonly known as “wind turbine” or “windmill”). The term WECS shall be used interchangeably with the terms “wind turbine” or “windmill,” with said terms having the same meaning as a WECS.

“Wind energy facility”- means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, appurtenant structures, and facilities.

“Wind tower”- means the supporting structure of a wind turbine on which a rotor and accessory equipment are mounted.

“Wind turbine”- means a Wind Energy Conversion System that converts wind energy into electricity through a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

“Wind turbine height”- means the distance measured from the surface of the tower foundation to the highest point of a wind rotor blade when the blade is positioned at angle of 90 degrees to the surface of the ground.

“Winery”- means a property where wine is produced. The wine produced at the winery may be sold, stored, and consumed on premises if all required state licensing is obtained. Grapes to produce the wine may also be grown on the premises.

“Woodland”- means a tree mass or plant community in which tree species are dominant or co-dominant, the branches of trees form a complete, or nearly complete, aerial canopy, excluding orchards or old fields.

“Yard”- means a prescribed open and unobstructed space or area on a lot that is located between a building or structure and the nearest lot line. A yard is also referred to as a setback.

“Yard, front”- means a space or area extending the full width of the lot between a principal or accessory building or structure and the front lot line and measured perpendicular to the building or structure at the closest point to the front lot line. This area is bounded by the street line, front setback line and side property lines.

“Yard, rear”- means a space or area extending the full width of the lot between the structure or building and the rear lot line and measured perpendicular to the building or structure at the closest point to the rear lot line. This area is bounded by the rear property line, rear setback line and side lot lines.

“Yard sale”- means the accessory and temporary use of a lot upon which a dwelling unit is located for the occasional sale or auction of common household goods, furniture and items generated from the dwelling unit located on the lot. Any sale

occurring more than six times in any given year shall be considered a retail sales establishment. The term includes a moving sale.

“Yard, sides”- means a space or area extending from the front yard to the rear yard between a building or structure and the side lot line measured perpendicular from the side lot line to the closest point of the building or structure. This area is bounded by side property lines, and side, front and rear setback lines.

“Zoning district” or “Zone”- means those portions of the municipality depicted upon the official zoning map, within which certain uniform regulations and requirements apply under the provisions of this ordinance. The municipality has the following zoning districts or zones: R-1 Single-Family Residential, R-2 Multi-family Residential, S-1 Conservation, A-1 Agricultural, B-1 Commercial, and I-1 Industrial.

“Zoning hearing board”- means the Black Creek Township Zoning Hearing Board.

“Zoning map”- means the map containing the zoning districts of Black Creek Township, Luzerne County, Pennsylvania. This map is also referred to as the official zoning map of Black Creek Township.

“Zoning officer”- means the person appointed to administer and enforce the provisions of this zoning ordinance, and any amendments thereto.

“Zoning ordinance”- means the Black Creek Township Zoning Ordinance of 2024, as amended from time to time.

**ARTICLE 3**  
**ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT**  
**REGULATIONS**

Section 301. Official Zoning Map. The governing body has made an official map of the township. The location and boundaries of the zoning districts of the township are on the official Black Creek Township Zoning Map as previously adopted, which is attached hereto, made a part of hereof and incorporated herein by reference. The zoning map is also on file in the zoning office and is the authority on the current zoning status of all land within the township. If the official zoning map is amended under this ordinance, the amendment shall be promptly noted on the map once it is approved by the governing body.

Section 302. Zoning District Classifications. The township is divided into the following six zoning districts:

- (1) “R-1” (SINGLE FAMILY RESIDENTIAL DISTRICT)
- (2) “R-2” (MULTI-FAMILY RESIDENTIAL DISTRICT)
- (3) “C-1” (CONSERVATION DISTRICT)
- (4) “A-1” (AGRICULTURAL DISTRICT)
- (5) “B-1” (GENERAL COMMERCIAL DISTRICT)
- (6) “I-1” (INDUSTRIAL DISTRICT)

Section 303. Overlay District. The Township has the “WTO” (WIND TURBINE OVERLAY DISTRICT).

Section 304. Purposes of Each Zoning District.

(1) Single Family Residential District. The purpose of this zoning district is to provide predominantly single-family dwelling units in areas already developed or to be developed in this manner, where this type of housing is desirable and harmonious with the area.

(2) Multi-Family Residential District. The purpose of this zoning district is to accommodate single-family and two-family dwelling units in areas already developed in this manner. Selected locations provide for the accommodation of multi-family dwelling units.

(3) Conservation District. The purpose of this zoning district is to provide for the preservation and protection of natural areas and resources including surface waters, environmentally sensitive soils, steep slopes, woodland, and wildlife, while perpetuating

the rural atmosphere, open spaces, and scenic beauty. Different types of development are permitted provided there is sufficient area to promote and maintain public health, welfare and safety and not interfere with the natural features of the district.

(4) General Commercial District. The purpose of this zoning district is to provide for the needed retail and service commercial businesses that supply goods and services to both the community and the region. This zoning district provides suitable locations for certain businesses meant to locate in areas where no residences exist or where the uses will have little impact upon other incompatible uses.

(5) Industrial District. The purpose of this zoning district is to provide locations for both light and heavy industries to diversify the region's economy and offer valuable employment opportunities. This zoning district will principally permit light and small-scale industries as permitted uses but require special exception or conditional use approval for larger uses that pose the potential for greater impact given their proximity to residences and other noncompatible uses along the fringes of the zone. Design standards, substantial setbacks, screening, and environmental protection regulations have been imposed to create attractive site designs and minimize the objectionable impacts associated with some types of industrial uses.

(6) Agricultural District. The primary purpose of this zoning district is to promote the continuation and preservation of agricultural activities in those areas of the municipality most suitable for such activities considering topography, soil type and classification, and present use. Areas contained within this zoning district have been specifically identified as possessing valuable and nonrenewable natural and cultural resources. Nevertheless, nonagricultural uses are permitted; however, future nonagricultural uses must be willing to accept the impacts associated with normal agricultural operations and practices, and related businesses.

(7) Wind Turbine Overlay District. The purpose of this zoning district is to provide for the construction and operation of Wind Farms subject to reasonable conditions that will protect the public health, safety, and welfare.

#### Section 305. Interpretation of Zoning District Boundaries.

(1) The boundary lines for the zoning districts are as shown on the official zoning map. If uncertainty exists as to the boundary of any zoning district shown on the official zoning map, the location of the boundary shall be determined based on following guidelines:

A. Zoning district boundary lines are intended to follow or parallel the center line or right-of-way lines of streets, streams, creeks, municipal boundary lines, and lot lines as they exist on a recorded deed or plan in the office of the county recorder of deeds at the time of adoption of this ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the official zoning map.



B. Where zoning district boundaries are referenced by a distance or measurement from a specific feature, such distance shall be measured in feet and the district boundaries shall follow the specified setback.

C. Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines and does not scale more than 10 feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

(2) When a lot is contained within more than one zoning district, any use is required to comply with all applicable design standards upon that portion of the lot within the zoning district in which the use is permitted. However, if a zoning district boundary line divides a lot placing at least 75 percent of the lot area in a specific zoning district, the location of such district boundary line may be construed to include the remaining 25 percent or less of the lot so divided.

(3) When the zoning officer is unable to determine the location of a zoning district, a person must appeal to the zoning hearing board for a decision on the location of the zoning district.

(4) If the zoning officer determines the location of a zoning district applying the guidelines under this section, any aggrieved person may file an appeal with the zoning hearing board for a decision on whether the zoning officer's determination of the location of a zoning district is correct. In doing so, the zoning hearing board shall either affirm the determination of the zoning officer or reverse the determination of the zoning officer and decide the proper location of the zoning district at issue.

Section 306. Zoning District Dimensional Regulations. The following table governs the minimum dimensional requirements for each building, structure, lot and use within the zoning district noted:

**[Dimensional Table on Following Page]**

Regulation By District	R-1 Single-Family Residential	R-2 Multi-Family Residential	C-1 Conservation	I-1 Industrial	B-1 General Commercial	A-1 Agricultural
Front Yard	35 feet	30 feet	50 feet	50 feet	35 feet	35 feet
Rear Yard	30 feet	25 feet	50 feet	100 feet	25 feet	50 feet
Each Side Yard	15 feet	10 feet	50 feet	75 feet	25 feet	25 feet
Minimum Lot Size	21,780 sq. ft. 43,560 sq.ft. <sup>1</sup>	12,000 sq. ft. 21,780 sq. ft. <sup>1</sup>	87,120 sq. ft.	217,800 sq. ft.	21,780 sq. ft. 43,560 sq. ft. <sup>1</sup>	65,340 sq. ft
Width	100 feet 125 feet <sup>1</sup>	75 feet 100 feet <sup>1</sup>	200 feet	250 feet	125 feet 150 feet <sup>1</sup>	150 feet
Depth	150 feet	125 feet	200 feet	250 feet	150 feet	200 feet
Maximum Height	35 feet	35 feet	35 feet	40 feet	40 feet	35 feet
Maximum Percentage of Building Coverage	25%	35%	15%	60%	70%	20%

<sup>1</sup> Public Sewer is not available.

**Section 307. Permitted Uses, Special Exception Uses and Conditional Uses.** The following table classifies all uses within the zoning district noted:

SYMBOL	USE
P	Permitted use- A use indicated or listed under any of the zoning districts as a “Permitted Use” is a use permitted by right within that zoning district, thereby not necessitating zoning hearing board approval, but only the issuance of a permit by the zoning officer.
S	Special exception- A use indicated or listed under any of the zoning districts as a “Special Exception Use” is a use for which the zoning hearing board decides whether to permit or deny in accordance with this ordinance and the zoning officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
C	Conditional use- A use indicated or listed under any of the zoning districts as a “Conditional Use” is a use for which the governing body decides whether to permit or deny in accordance with this ordinance and the zoning officer has no discretion to approve any permit where the use is classified as requiring conditional use approval.
N	Not permitted

**[Use Table Starts on Following Page]**

<b>Residential Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Single-Family Dwelling Unit	P	P	P	P	N	N	
Two-Family Dwelling Unit	N	P	P	P	N	N	
Multi-Family Dwelling Unit	N	P	S	S	N	N	802(6)
Dwelling Above Business	N	N	N	N	P	N	802(20)
Home Occupation	S	S	S	S	N	N	802(25)
No-impact Home Based Business	P	P	P	P	N	N	802(35)
Manufactured Home Community	N	N	C	C	N	N	802(33)
Playground/Park	P	P	P	P	P	N	
Recreational Cabin, Private	P	P	P	P	N	N	
Retirement Community	P	P	P	N	N	N	
Short-term Rental	N	S	S	S	P	N	802(44)
<b>Accessory Uses</b>	P	P	P	P	N	N	
Private Garage	P	P	P	P	N	N	
Satellite Dish	P	P	P	P	N	N	
Storage Sheds and Parking	P	P	P	P	N	N	
Swimming Pools and Ponds	P	P	P	P	N	N	

<b>Agricultural Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Agribusiness	N	N	N	P	N	N	802(2)(B)
Agricultural Equipment Sales and Rentals	N	N	N	P	N	N	
Agricultural Operations	N	N	C	P	N	N	802(2)(A)
Agricultural Product Marketing and Sales	N	N	N	P	N	N	802(2)(C)
Agricultural Related Business	N	N	N	P	N	N	
Agricultural Support Occupation	N	N	C	P	N	N	
Agritourism	N	N	N	P	N	N	
Forestry	P	P	P	P	P	P	802(22)
Greenhouse, Nursery and Garden Center	N	N	S	P	P	N	802(2)(C)
Hemp Grower or Processor	N	N	N	S	N	N	802(2)(E)
Keeping of Agricultural Animals, Horses, and Livestock	N	N	C	P	N	N	See also Ordinance no. 5 of 2023 for regulations regarding the non-commercial keeping of livestock. 802(2)(D)
Keeping of Bees or Chickens	N	N	P	P	N	N	See also Ordinance Nos. 3 and 5 of 2023.

<b>Agricultural Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Keeping of Exotic Animals	N	N	N	N	N	N	
Medical Marijuana Grower and Processor	N	N	N	C	N	N	802(2)(F)
Nature Preserve	N	N	C	N	N	N	
Tree Farm	N	N	P	P	N	N	
Water Withdrawal	N	N	C	N	N	N	802(50)
Winery	N	N	P	P	N	N	
<b>Accessory Uses</b>	N	N	P	P	P	P	

<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations Sections</b>
Adult Care Center	N	S	N	N	P	N	
Adult Use	N	N	N	N	N	C	802(1)
After Hours Club	N	N	N	N	N	N	Act 219 of 1990 (prohibited)
Airport or Heliport	N	N	N	N	N	C	802(7)
Animal or Veterinarian Clinic	N	N	N	S	S	N	
Animal Daycare	N	N	N	S	S	N	802(3)
Animal Hospital	N	N	N	N	S	N	802(4)
Animal Kennel	N	N	S	S	P	N	802(5)
Assisted Living Residence	N	N	S	N	N	N	802(8)
Auditorium, Arena, Performing Arts Center or Exhibition and Trade Show, Stadium	N	N	N	N	P	N	
Automobile, Boat, Equipment, Home, and Recreational Vehicle Sales	N	N	N	N	S	P	802(9)(B)
Automobile Detailing Shop	N	N	N	N	P	P	
Automobile Parts and Supplies	N	N	N	N	P	P	
Automobile Repair Garage	N	N	N	N	P	P	802(9)(A)
Automobile Service Station	N	N	N	N	P	P	802(9)(C)
Automobile Storage Compound	N	N	N	N	P	P	802(9)(D)
Bank or Financial Institution	N	N	N	N	P	N	
Banquet Hall	N	N	N	N	P	N	
Bar	N	N	N	N	P	N	
Bed and Breakfast	N	N	S	S	P	N	802(10)
Betting Use	N	N	N	N	P	N	

<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Boarding or Rooming House	N	S	N	N	P	N	802(11)
BYOB Club, Bottle Club or Night Club	N	N	N	N	C	N	
Car Wash	N	N	N	N	S	N	802(9)(E)
Catering for Off-Site Consumption	N	N	S	S	P	N	
Cemetery or Mausoleum	N	P	P	N	N	N	802(14)
Check Cashing Business	N	N	N	N	S	N	
Childcare Center	N	S	P	N	P	N	802(15)
Community Center	N	S	N	N	P	N	
Construction Company or Tradesperson's Principal Office	N	N	P	P	P	P	
Contractor Storage Yard	N	N	P	P	N	P	802(13)
Convenience Store with or without Gasoline	N	N	N	N	P	N	
Correctional Facility	N	N	N	N	N	C	802(18)
Drive-In/Thru Use	N	N	N	N	S	S	802(19)
Emergency Services	P	P	P	P	P	P	
Fairgrounds	N	N	C	C	N	N	
Family Childcare Home	S	S	P	P	N	N	802(15)
Fitness Club	N	N	N	N	P	N	
Flea Market, Auction House, Fairground, or Outdoor Theatre	N	N	N	C	P	P	
Funeral Home	N	S	S	N	N	N	802(23)
General Office	N	N	N	N	P	N	
Grocery Store	N	N	N	N	P	N	
Group Childcare Home	N	S	S	N	N	N	
Group Home	P	P	P	P	N	N	802(24)
Half-Way House	N	N	C	N	N	N	
Health Care Campus	N	N	N	N	P	N	802(26)
Heliport	N	N	N	N	N	C	
Hookah Lounge	N	N	N	N	S	N	
Hospice Facility	N	N	N	N	P	N	
Hospital	N	N	N	N	P	N	
Hotel or Motel	N	N	N	N	P	P	802(27)
Institutional Group Home	N	N	N	N	N	C	
Laundromat or Clothes Cleaning Laundry, Neighborhood	N	N	N	N	P	N	
Lumber Yard	N	N	N	N	S	P	

<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Massage Services with Licensed Health Care Professional	N	N	N	N	P	N	
Massage Services without Health Care Professional	N	N	N	N	N	P	
Medical Facility	N	N	N	N	S	N	802(29)
Medical Marijuana Academic Clinical Research Center	N	N	N	N	N	P	802(30)
Medical Marijuana Delivery Vehicle Office	N	N	N	N	N	P	802(31)
Medical Marijuana Dispensary	N	N	N	N	P	N	802(32)
Membership Club or Social Hall	N	S	P	N	P	N	
Nursing Home	N	S	N	N	P	N	802(8)
Pawn Shop	N	N	N	N	P	N	
Personal Care Home	N	S	N	N	P	N	802(8)
Personal Service Establishments	N	N	N	N	P	N	
Place of Worship	N	S	S	N	P	N	802(37)
Playground/Park	P	P	P	P	P	N	
Professional Office	N	N	N	N	P	N	
Public Governmental Use	N	N	N	N	P	P	
Radio or Television Studio	N	N	N	N	P	P	
Recreational Facility (Indoor)	N	N	S	N	P	N	
Recreational Facility (Outdoor)	N	N	C	N	P	N	802(39)
Rehabilitation Facility	N	N	N	N	S	N	802(29)
Restaurant Take-Out	N	N	N	N	P	N	
Restaurant with Drive-In or Drive-Thru	N	N	N	N	S	N	802(19)
Restaurant without Drive-In or Thru	N	N	N	N	P	N	
Retail Sales Establishments	N	N	N	S	P	N	
Sawmill	N	N	C	C	N	P	802(40)
School	N	N	N	N	P	N	802(41)
School with Dormitory	N	N	N	N	S	N	
Secondhand Store	N	N	N	N	P	N	
Self-Storage Facility	N	N	N	N	P	P	802(42)
Shopping Center or Big Box Store	N	N	N	N	S	N	802(43)

<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Smoke Shop (Sales Only No Smoke Room)	N	N	N	N	P	N	
Smoke Shop (Sales with Smoke Room)	N	N	N	N	S	N	
Tattoo Parlor/Body-Piercing Studio	N	N	N	N	P	N	
Tavern, Brewery Pub and Micro-Brewery	N	N	N	N	P	N	
Theatre (Indoor Movie or Live-No Adult Use)	N	N	N	N	P	N	
Theatre (Outdoor-No Adult Use)	N	N	P	N	N	N	
Treatment Facility	N	N	N	N	S	N	802(29)
Wellness and Fitness Center	N	N	N	N	P	N	
Wholesale Establishment	N	N	N	N	P	P	
<b>Accessory Uses</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	

<b>Industrial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Asphalt, Batch and Concrete Plant	N	N	N	N	N	C	
Bulk Fuel Storage Facility	N	N	N	N	N	C	802(12)
Bulk Recycling Center	N	N	N	N	N	S	
Clothes Cleaning Laundry, Industrial	N	N	N	N	N	P	
Crematorium	N	N	N	N	N	P	
Data Center	N	N	N	N	N	C	
Hazardous Substances or Hazardous Material, Storage or Use	N	N	N	N	N	C	
Heavy Industrial	N	N	N	N	N	C	
Industrial Hemp Production	N	N	N	N	N	S	
Junk or Salvage Yard	N	N	N	N	N	S	802(28)
Light Industrial	N	N	N	N	N	P	
Machine Shop	N	N	N	N	N	P	
Mineral Extraction	N	N	N	N	N	C	802(34)
Packaging Plant	N	N	N	N	N	P	
Railroad Yards	N	N	N	N	N	P	
Recycling Collection Center	N	N	N	N	N	P	

<b>Industrial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Shredding, Industrial	N	N	N	N	N	C	
Slaughterhouse or Food Processing	N	N	N	N	N	C	
Solid Waste Facilities	N	N	N	N	N	C	802(47)
Truck Service Center, Repair and Storage	N	N	N	N	S	P	
Trucking Terminal	N	N	N	N	N	S	802(48)
Warehouse and Distribution	N	N	N	N	N	P	802(49)
<b>Accessory Uses</b>	N	N	N	N	N	P	

<b>Utilities</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>A-1</b>	<b>B-1</b>	<b>I-1</b>	<b>Supplemental Regulations (Sections)</b>
Communication Facility, Small Wireless or Small Cell Installation	N	N	S	S	N	S	802(16)
Communication Tower on Building or Structure	N	N	P	P	N	P	802(17)
Communication Tower or Antenna, Stand Alone	N	N	S	S	N	S	802(17)
Electricity Generating Plant	N	N	N	N	N	C	
Essential Public Utility Services, Enclosed	S	S	S	S	S	S	802(38)
Essential Public Utility Services, Open	P	P	P	P	P	P	802(38)
Fiber Optic Switch Facility	N	N	N	N	N	S	802(21)
Natural Gas Processing Plant	N	N	N	N	N	C	
Oil and Gas Operations and Compressor Stations	N	N	N	N	N	C	802(36)
Public Transmission Tower	N	N	S	S	S	S	
Sewage Treatment Plant	N	N	N	N	N	C	
Solar Energy Systems, Principal (PSES)	N	N	C	C	N	N	802(45)
Solar Energy Systems, Accessory (ASES)	S	S	S	S	S	S	802(46)



Section 308. "WTO" Wind Turbine Overlay Districts.

(1) Location. The specific locations of the Wind Turbine Overlay District can be found on the "Black Creek Township Wind Turbine Overlay District Map". This District is designated on the map as a cross-hatched area. The district is limited to the existing large parcels located on the ridge of Buck Mountain with the district boundary lines generally coinciding with the existing parcel boundary lines. Any dispute over the actual location of the zoning district is to be handled by a determination of the zoning officer.

(2) Uses by Special Exception or Conditional Use.

Accessory Wind Energy Facilities (AWEF) (permitted by special exception in every zoning district).

Principal Wind Energy Facilities (PWEF) (permitted by conditional use in the WTO Wind Turbine Overlay District).

(3) Accessory Wind Energy Facilities (AWEF).

A. Compliance Standards. The layout, design and installation of AWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Notske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with the UCC and all applicable building and electrical codes of the municipality. The manufacturer specifications shall be submitted as part of the permit application.

B. Noise.

- i. The sound produced by an AWEF shall not exceed 45 dBA L<sub>max</sub> as measured at the property line at ground level.
- ii. Methods for measuring and reporting acoustic emissions from AWEF shall be equal to or exceed the minimum standards for precision described in ANSI/ASA S12.9 Part 3, Short Term Measurements with an Observer Present; S 12.100, Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas; and Computer Modeling shall comply with ANSI/ASA S12.6 (ISO9613-2) Attenuation of sound during propagation outdoors- Part 2 General method of Calculation.

- C. Accessory Building Storage. When an accessory building is necessary for storage cells or related mechanical equipment, the accessory building shall be located at least 50 feet from every property line.
- D. Underground Requirements. All on-site utility, transmission lines, and cables shall to the maximum extent possible be placed underground.
- E. Utility Notification. The owner of an AWEF shall provide the municipality with written confirmation that the public utility to which the AWEF will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid AWEF shall be exempt from this requirement.
- F. Signage. The display of advertising is prohibited, except for the identification of the manufacturer of the system.
- G. Lighting. AWEF may not be lit, except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations.
- H. Colored. AWEF shall be painted a non-reflective, flat color such as white, off grey, or grey unless required to be colored differently by FAA or BOA regulations.
- I. Braking System. AWEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation may not be considered a sufficient braking system for overspeed protection.
- J. Shadow Flicker. An AWEF shall not cause shadow flicker on any occupied building on a non-participating landowner's property.
- k. Location. No part of any AWEF shall extend over parking areas, access drives, driveways, or sidewalks.
- l. Insurance. The owner of the AWEF shall provide evidence to the municipality that the owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the AWEF.
- j. Ice Throw. The potential ice throws or ice shedding for an AWEF shall not cross the property line of the lot on which the AWEF is located nor impinge on any right-of-way or overhead utility line.

k. Electronic Interference. The owner of the AWEF shall ensure that the design and operation of the AWEF avoids disruption or loss of radio, telephone, television, cell, internet, VOR signalization for aircraft or similar signals, and shall mitigate any harm caused thereby.

l. Warnings.

- i. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers.
- ii. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along guy wires up to a height of 10 feet above the ground.

j. Ground Mounted AWEF.

- i. The minimum lot size is two acres.
- ii. The maximum height of an AWEF is 80 feet.
- iii. The minimum ground clearance for an AWEF is 80 feet.
- iv. An AWEF shall be set back from property lines, occupied dwelling, above ground utility lines, railroads, and rights-of-ways by a distance equal to or no less than one and a half times the total height of an AWEF.
- v. No more than one ground mounted AWEF shall be permitted per lot or contiguous lots in common ownership.
- vi. A ground mounted AWEF shall be prohibited in front yards, between the principal building and the street right-of-way. The minimum distance between the ground and the wind rotor blade shall be 20 feet.
- vii. An AWEF shall be surrounded by a six-foot high fence if the AWEF is not otherwise rendered unclimbable up to 12 feet above the ground.

k. Building Mounted AWEF.

- i. A building mounted AWEF may be located on any lot regardless of lot size.

- ii. A building mounted AWEF shall comply with the height restriction of the zoning district in which it is located for a principal building.
- iii. No more than one building mounted AWEF shall be permitted on a lot, or a contiguous lot in common ownership.
- iv. The applicant shall provide evidence to the municipality that the plans for a building mounted AWEF comply with the UCC and other adopted building

(4) Principal Wind Energy Facilities (PWEF).

A. Compliance Standards.

- i. The design of the PWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL) Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable building and electrical codes of the Township. The applicant shall submit certificate of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanishcer Lloyd Wind Energies, or other similar certifying organizations. The manufacturer specifications shall be submitted with the zoning permit application.
- ii. To the extent applicable, the PWEF shall comply with the PA Uniform Construction Code.
- iii. All electrical components of the PWEF shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.

B. Noise.

- i. The audible sound from a wind turbine may not exceed 45 A- weighted decibels and shall also not exceed 55 C- weighted decibels, as each is measured at the lot line of a property of a non-participating landowner within one mile or less from the nearest property line on which a wind turbine is located unless a written waiver is provided by the

owner of such property. This requirement shall be a maximum noise level using a Lmax standard, and not based upon an average. Audible tones from electrical or mechanical components are prohibited. Measurements shall comply with ANSI/ASA S12.9 Part 3, Short Term Measurements with an Observer Present; S 12.100, Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas; and Computer Modeling shall comply with ANSI/ASA S12.6 (ISO9613-2) Attenuation of sound during propagation outdoors- Part 2 General method of Calculation.

- ii. The above maximum noise limits shall be reduced to 42 A-weighted and 52 C-weighted decibels between the hours of 10 p.m. and 7 a.m., local time. However, the noise limits shall not be reduced below 45 A-weighted decibels where the applicant provides evidence that the current continuous background sound level without the wind turbines would be higher than 42 A-weighted decibels. The continuous background sound level shall be determined per the methods of ANSI/ASA S12.9 Part3 and ANSI/ASA S12.100.
- iii. All required noise studies and testing shall be completed by a qualified independent professional having specialized expertise in noise analysis. The qualifications of the person conducting the analysis shall be included in the conditional use application. ANSI standards shall be used for calibration of the noise meter.
- iv. With the conditional use application, the applicant shall provide a written noise study that projects the maximum sound levels at the property line of the nearest five non-participating landowners, and that recommends measures that may be used as conditions by the governing body to minimize noise impacts. The noise study shall document compliance with the A- and C-weighted decibels maximum level requirements of this section.
- v. The applicant shall provide an independent written test of actual noise produced by the project upon completion, and every two subsequent years after the project is completed, to document compliance with the noise standards in this section. If the project involves more than 10 total wind turbines, then the noise study shall also be completed after each 10 wind turbines are put

into service. If the testing finds that the noise levels in this Section are being violated, then the owner of the wind turbines shall immediately take the wind turbines out of service until such modifications, replacements, or repairs are made to the wind turbines as are required or necessary to make them comply with the noise levels of this section.

- vi. In addition to the noise studies provided above, at any time when the zoning officer has reasonable cause to believe that the noise limits of this section is being violated, the zoning officer may request that the municipality or its authorized agents conduct its own tests to ascertain compliance with the noise limits. The facility operator shall assist with the test as necessary.
- vii. If the municipality institutes an enforcement action because of a violation of the noise limits, and if the owner is found liable for the violation in a civil enforcement proceeding, then in addition to any other rights or remedies available to the municipality, the judgement shall require the owner of the project to pay all of the municipality's costs and expenses to prove non-compliance with the noise requirements, including the tests to determine the noise levels. Such costs shall be paid within 30 days by the facility owner after the final judgement. In the event the facility owner does not pay such costs within 30 days, the municipality may pursue appropriate remedies at law or equity to recover such costs and expenses from the owner, including placing a municipal lien against the property upon which the project is located. By authorizing the facility owner to make an application, the landowner consents to the ability of the municipality to place a lien against the land in the event of a violation.

C. Vibrations. A wind turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located. Wind turbines may not cause airborne vibrations which are perceptible to people or structures.

D. Accessory Buildings, Structures and Mechanical Equipment.

- i. When an accessory building or structure is necessary, it shall comply with the principal building requirements of the zoning district in which it is located.

- ii. Accessory buildings, structures and equipment associated with PWEF shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the zoning ordinance may be used.
- iii. The design of accessory buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening, and landscaping that will blend into the natural setting and existing environment.

E. **Underground Requirements.** On-site transmission and power lines between wind turbines shall be placed underground.

F. **Utility Notifications.** The owner of a PWEF shall provide the municipality with written confirmation that the public utility to which the PWEF will be connected has been informed of the intent to install a grid connected system and approved of such connection.

G. **Signage.** PWEF shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner or operator.

H. **Lighting.** PWEF shall not be artificially lighted, except to the extent required by the Federal Aviation Administration, the Pennsylvania Department of Transportation Bureau of Aviation (BOA) or other applicable authority that regulates air safety.

I. **Color.**

- i. PWEF shall be painted a non-reflective, flat color such as white, off grey, or grey unless required to be colored differently by FAA or BOA regulations.
- ii. The design of buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening, and landscaping that will blend the PWEF into the natural setting and existing environment.

J. **Braking System.** All PWEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation may not be considered a braking system for overspeed protection.

K. Shadow Flicker.

- i. The applicant shall provide an analysis with a map of the shadow flicker impacts of the project upon any non-participating landowner's property that will be impacted by this effect. The analysis shall be conducted by a qualified professional using generally accepted modeling methods and shall estimate the number of hours per year that a non-participating landowner's property will be impacted by shadow flickering. No lot line of a non-participating landowner's property shall be affected by shadow flicker for a total of more than 20 hours per year, and no more than 30 minutes per day. Such analysis shall include recommendations for conditions that may be established by the board of supervisors to minimize the number of affected non-participating landowner's properties, the hours affected and the severity of the impacts from shadow flicker. This provision shall not apply to an affected property if a written and signed waiver is provided by the owner of said property.
- ii. A PWEF shall be designed in such a manner as to not cause shadow flicker on a roadway.

L. Location. No part of any PWEF shall extend over parking areas, access drives, driveways, or sidewalks. No blade or any component part of a PWEF shall extend beyond the boundaries of the zoning district in which it is located. Wind turbines shall be separated from each other by a minimum distance of five times the diameter of the rotors.

M. Insurance. The PWEF owner or operator shall maintain a current general liability policy covering:

- i. \$1,000,000.00 of personal or bodily injury to or death of any person.
- ii. \$3,000,000.00 for personal or bodily injury to or death of any number of persons arising from any one occurrence.
- iii. \$1,000,000.00 for any instance of property damage.
- iv. An umbrella liability insurance coverage shall also be maintained with coverage to be not less than \$3,000,000.00 for each occurrence and \$3,000,000.00 in the aggregate.



Certificates of insurance for the above required coverage shall be provided to the municipality annually.

N. Ice Throw. The potential ice throws or ice shedding for a PWEF shall not cross the property line on which a PWEF is located nor impinge on any right-of-way or overhead utility line.

O. Electronic Interference. The facility owner and operator shall ensure that the design and operation of any PWEF avoids any disruption or loss of radio, telephone, television, cell, Internet, VOR signalization for aircraft, or similar signals, and shall mitigate any harm caused by the wind energy facility.

P. Lot Size. For a tract of land to be eligible for a PWEF, it shall have a minimum lot size of three acres for each wind turbine.

Q. Setback Distances.

- i. Wind turbines shall be set back from the nearest occupied building or non-occupied building on the participating landowner's property a distance not less than the setback requirements for the zoning district in which it is located for a principal building or two times the turbine height, whichever is greater. The setback distance shall be measured horizontally from the center of the wind turbine base to the nearest point on the foundation of the occupied building or non-occupied building.
- ii. Wind turbines shall be set back from the nearest occupied building or non-occupied building located on a non-participating Landowner's property a distance of not less than five times the turbine height, or 1,500 feet, whichever is greater as measured horizontally from the center of the wind turbine base to the nearest point on the foundation of the occupied or non-occupied building.
- iii. All wind turbines shall be set back from the nearest property line a distance of not less than the setback requirements for a principal building in the zoning district in which it is located or two times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
- iv. All wind turbines shall be set back from the nearest public road a distance not less than the setback requirements for a principal building in the zoning district in which it is located or two times the turbine height, whichever is

greater, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

- v. Each wind turbine shall be set back from above-ground power lines, public telephone lines and television cable lines a distance no less than two times its total height. The setback distance shall be measured from the center of the wind turbine base to the nearest point on such lines.
  - vi. Wind turbines shall be set back at least 1,500 feet from important bird areas as identified by Pennsylvania Audubon and at least 500 feet from identified wetlands.
  - vii. Each wind turbine shall be set back from any historic structure, district, site, or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission and all airports and heliports a distance of not less than 2,500 feet. The distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of an historic building, structure or resource, or the nearest property line of a historic district, site, runway, or helipad.
  - viii. The base of any wind turbine shall be setback 500 feet from the centerline of a perennial waterway and 2,000 feet from the average water level of a public water supply reservoir.
- R. Height. The maximum wind turbine height may not exceed 450 feet and must comply with all regulations imposed by the FAA.
- S. Visual Impact and Analysis.
- i. Where wind characteristics permit, wind turbines shall, to the greatest possible extent, be set back from the tops of visually prominent ridgelines.
  - ii. Wind energy facilities shall be designed and located to the greatest extent possible to minimize adverse visual impacts to locations throughout the municipality.
  - iii. The applicant shall provide a visual analysis of the project. The analysis shall include a three-dimensional computer-generated surface model that accurately depicts the wind turbines in proper scale and location in relationship to the surrounding terrain from not less than ten different locations within the municipality as selected by the

governing body. The ten locations shall include any combination of public roads and public and/or private properties that may experience the greatest visual impacts. The applicant shall also be required to conduct a subsequent balloon test at the ten selected locations to confirm the visual impact of the three-dimensional computer-generated surface model. Public notice as defined under the Pa MPC shall be required regarding the time and dates of balloon testing.

T. Property Values. The applicant shall submit an analysis by a qualified appraiser of the actual impacts upon residential property values of a similar set of wind turbines in a mostly rural community within the United States. Such analysis shall compare changes in property values of impacted dwellings to changes in property values of non-impacted dwellings over the same period. Properties within a one-mile radius of a wind farm shall be considered, as well as properties outside that radius. The study shall be completed by an appraiser who has an active MAI, SRA or SRPA certification from the appraisal institute. The appraiser must also have a Pennsylvania appraiser license.

U. Warnings.

- i. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- ii. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.

V. Safety and Security.

- i. All access doors to wind turbines, including electrical equipment outbuildings and all appurtenances thereto shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- ii. The minimum distance between the ground and any part of the wind rotor blade shall be 30 feet.
- iii. To limit climbing access, a six-foot high fence with a locking gate shall be placed around the PWEF.
- iv. Wind turbines' climbing apparatus shall be limited to no

lower than 15 feet from the ground or the wind turbines' climbing apparatus shall be fully contained and locked within the tower structure.

W. Use of Public Roads.

- i. The Applicant shall identify all state, county, and local public roads to be used within the municipality to transport equipment and parts for construction, operation, or maintenance of the PWEF.
- ii. The municipal engineer or a qualified third-party engineer selected by the municipality and paid for by the applicant, shall document road conditions prior to construction. The documentation shall include photographs and video recordings of all approved travel routes to substantiate the report. The applicant shall ensure a municipal official delegated by the governing body is present when photographs and video tapes are taken. Copies of the inspection report, photographs, and video tapes shall be submitted to the municipality. The engineer shall document road conditions again 30 days after construction is complete or as weather permits. The applicant is responsible for all repairs and remediation of any damaged roads resulting from the installation or subsequent maintenance of a wind energy facility. Such repairs and remediation shall be completed within 30 days from the time of damage unless a greater amount of time is approved by the governing body.
- iii. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
- iv. A bond shall be posted by the applicant to compensate the municipality for any damage to municipal roads in compliance with state regulations. An improvement and maintenance agreement shall also be entered into between the operator and the municipality in a form acceptable to the municipal solicitor to ensure that if any roads are damaged the operator shall be responsible for their replacement or repair.
- v. The applicant shall demonstrate that it has appropriate financial security to ensure the prompt repair or replacement of damaged roads.

- vi. Every effort should be made to use existing roads and logging roads. New deforestation and forest fragmentation must be kept to a minimum. Private entrance roads to PWEF shall be maintained in a mud-free condition.

X. Local Emergency Services.

- i. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including municipal designated emergency service providers.
- ii. The facility owner and operator shall abide by all applicable local, state, and federal fire code and emergency guidelines.
- iii. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the PWEF.
- iv. The facility owner and operator shall maintain a phone number and identify a responsible person for emergency contact.

Y. SALDO. All PWEF shall constitute a subdivision and/or land development.

Z. Decommissioning.

- i. The facility owner and operator shall complete, at their own expense decommissioning of the PWEF or individual wind turbines, and all related improvements, within 12 twelve months after the end of the useful life of the facility or individual wind turbines, or when the use has been discontinued or abandoned by the facility owner and operator. The PWEF or individual wind turbines will be presumed to be at the end of its useful life, discontinued or abandoned if no electricity is generated for a continuous period of 12 months.
- ii. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, transmission lines and any other associated facilities.
- iii. Disturbed earth shall be graded and re-seeded, unless the

landowner requests in writing and receives written approval from the municipality that the access roads, or other land surface areas not be restored.

- iv. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). The estimates shall be submitted to the municipality after the first year of operation and every fifth year thereafter.
- v. The facility owner or operator shall post and maintain decommissioning funds, representing a financial guarantee in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than 110 percent of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth of Pennsylvania chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth of Pennsylvania and is approved by the municipality.
- vi. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the municipality.
- vii. If the facility owner or operator fails to complete decommissioning within the six-month period, then the landowner shall have six months to complete decommissioning.
- viii. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed above, then the municipality shall have the authority to take such measures as necessary to secure and utilize decommissioning funds to complete decommissioning activities. The entry onto and submission of evidence of a participating landowner agreement to the municipality shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns

that the municipality may take such action as necessary to implement the decommissioning plan.

- ix. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality to implement the decommissioning plan.

**ARTICLE 4**  
**GENERAL REGULATIONS**

Section 401. Attached Accessory Structures. Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same dimensional requirements including such things as minimum front, side and rear yard setbacks, lot coverage and other lot requirements applicable to the principal structure.

Section 402. Unattached Accessory Structures.

(1) Unattached accessory roofed structures shall be subject to the following requirements:

Type of Accessory Structure	Minimum Side Yard Setback	Minimum Rear Yard Setback	Minimum Setback From a Street	Maximum Height	Maximum Number Per Lot	Maximum Floor Area
Residential Structure 1,000 sq. ft. of total floor area or more	15 feet	15 feet	20 feet	1 ½ stories or 15 feet	3 except when located on two or more acres of land	1600 sq. ft.
Residential Structure Less than 1,000 sq. ft. of total floor area	10 feet	10 feet	15 feet	1 ½ stories or 15 feet	3 except when located on two or more acres of land	999 sq. ft.
Non-residential	15 feet	25 feet	35 feet	24 feet	3 except when located on two, or more acres or land	2400 sq. ft.

(2) An accessory structure is permitted on a lot without a principal structure.

(3) In cases where a residential structure is a nonconforming use because it is in a zoning district that does not permit residential dwellings, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use but shall be subject to the regulations in this section.

(4) Cargo containers, railroad cars, trucks, vans, converted mobile homes, trailers, recreational vehicles, bus or truck bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials may not be used as accessory structures in the R-1 and R-2 Zoning Districts.



Such structures shall be permitted as accessory structures within all other zoning districts subject to the following requirements:

- A. Containers shall be placed in the rear yard of the property.
- B. Containers shall meet all guidelines for accessory structures.
- C. Containers shall be screened from all roads and adjacent residences if visible from the road or residence.
- D. The entire exterior of the container shall be an earth tone color.
- E. All containers shall require conditional use approval except for cargo containers.

Section 403. Residential Units for Care of Relatives. The use of a separate residential dwelling unit within or attached to a single-family dwelling unit may not be considered a second principal use, but shall constitute a permitted accessory use provided that all of the following criteria are met:

(1) Not more than two persons may occupy the separate accessory residential dwelling unit who must be relatives of the persons occupying the principal residential dwelling unit.

(2) At least one of the residents of the separate accessory residential dwelling unit must need accommodations because of illness, infirmity, age or disability.

(3) The separate accessory residential dwelling unit must be designed and constructed so that it may be reconverted into part of the principal residential dwelling unit within six months of the relatives no longer residing within the unit. This shall be a condition of any permit issued by the zoning officer.

(4) The separate accessory residential dwelling unit shall be attached to the principal residential dwelling unit in such a way as not to detract from the residential characteristics of the neighborhood. Attachments must consist of more than a breezeway and shall include walls, a roof and foundation.

(5) One additional off-street parking space shall be required for the separate accessory residential dwelling unit unless the applicant can prove to the satisfaction of the zoning officer that the residents of the separate accessory residential dwelling unit do not drive an automobile.

Section 404. Conversion of an Existing Building (including an existing dwelling) into Dwelling Units.

- (1) See Article 3, which regulates type and number of dwellings.

(2) A previously residential building shall maintain a clearly residential appearance as viewed from the street, except as may be necessary for restoration of a historic building. or the addition of handicapped or fire safety improvements.

(3) A maximum total of four dwelling units may be developed per lot unless a more restrictive provision is established by another section of this ordinance and unless the building included more than 4,000 square feet of building floor area at the time of adoption of this ordinance.

(4) Each unit shall meet the definition of a dwelling unit and shall meet the minimum floor area requirements of Section 426.

Section 405. Swimming Pools. Swimming pools shall not be in a required yard setback (front, side, or rear). The swimming pool and accessory structures shall meet the dimensional requirements for the zoning district in which it is located. All swimming pools, capable of containing water to a depth, at any point, of more than 24 inches shall be enclosed in accordance with the following subsections:

(1) In-Ground Pools. The swimming pool, or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four feet in height, which includes a gate secured with a lock.

(2) Above Ground Pools. An above ground swimming pool shall be enclosed with a permanent fence not less than four feet in height which includes a gate secured with a lock, or in lieu of a fence, a barrier not less than four feet in height. The fence or barrier may include the pool wall and any extension thereto which equals or exceeds a height of four feet. Access to a pool which includes a deck shall also be secured by a gate with a lock. Pools without access from a deck shall include removable or locking retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered a barrier. Decks which are attached to the pool may not project into any required yard setback for the pool.

(3) Other Regulations. Swimming pools shall conform to all manufacturer recommendations and specifications and all other state and federal regulations.

Section 406. Structures Allowed in Yards and Open Areas. The following structures shall be permitted in required yards (setbacks) and shall not be subject to yard setback requirements or calculated as part of the maximum building coverage:

(1) Lamp posts, walkways, sidewalks, driveways, retaining walls, fences, steps or landscaping.

(2) Projecting architectural features such as bay windows, cornices, eaves, chimneys, windowsills, or other similar architectural features provided that any such structure does not extend more than three feet into any required yard setback.

(3) Terraces, patios, outdoor fireplaces, outdoor furniture, or play ground

equipment provided that these structures are not under roof, without walls or other form of enclosure and are located not less than five feet to any lot line.

(4) Stairways, balconies, or canopies provided that these types of structures are setback not less than three feet from any lot line.

(5) Noncommercial satellite dish antennas provided that they do not exceed fifteen feet in height when erected in a residential zoning district.

(6) Temporary construction trailers provided that they are used on the lot where construction is being conducted and only while construction is occurring.

(7) Handicap ramps.

(8) Non-traditional temporary storage units as set forth in section 904(4) of this ordinance.

Section 407. Exceptions to Height Limitations. The height limitations of this ordinance shall not apply to the following structures or projections:

(1) Structures such as chimneys, flagpoles and water towers.

(2) Structures located on buildings above the roof level such as church steeples, water tanks, cupolas, skylights and other accessory mechanical appurtenances provided that such structures do not cover more than 25% of the roof on which they are located.

(3) Parapet walls or cornices used solely for ornamental purposes if not in excess of five feet.

Section 408. Exemption from Minimum Yard Requirements.

(1) In all zoning districts, any area of a pre-existing nonconforming roofed structure may be enclosed without meeting the yard setback requirements for the zoning district in which the property is located.

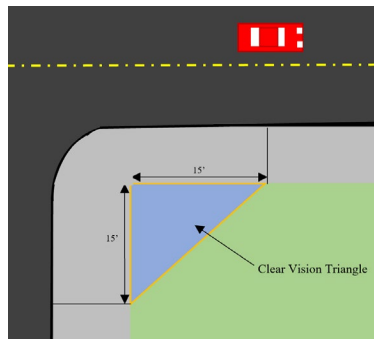
(2) When an unimproved lot is situated between two improved lots with front yard dimensions less than those required for the zoning district in which the lot is located, the front yard required may be reduced to a depth equal to the average of the principal buildings on the two adjoining improved lots but in no case less than 10 feet from the front yard.

(3) Where an addition is proposed for an existing principal residential building which extends into the required front yard, side yard or rear yard, the addition may extend into the required front yard, side yard, or rear yard no further than the existing building provided it:

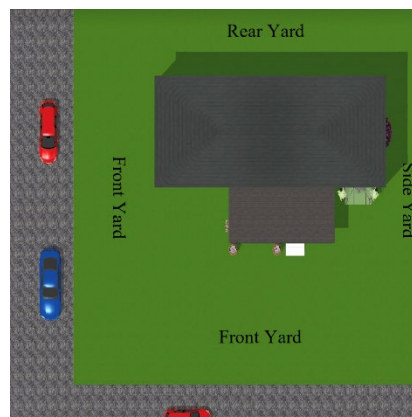
- A. Does not obstruct the clear sight triangle of an intersection.
- B. Is not more than 1,000 square feet in total floor area.
- C. Is no closer than 10 feet to a property line or adjoining street right-of-way line.

Section 409. Required Access. Every structure erected after the adoption of this ordinance shall have frontage on a public or private street.

Section 410. Visibility at Intersections. At a street intersection, a clear vision triangle shall be formed horizontally by measuring 15 feet along the roadway edges from the intersection of the roadway edges and connecting those points, and vertically by measuring between 3 feet and 10 feet above grade. The corner lot clear sight vision requirement is illustrated as follows:



Section 411. Corner Lot Restriction. On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the zoning district in which the lot is located. The corner lot restriction is illustrated as follows:



Section 412. Fences and Walls. A fence or non-retaining wall shall be permitted in any yard subject to the following requirements:

(1) Location. The posts or structural supports of a fence or wall may be located within the interior yard line to be enclosed so that the edge of the fence or wall is situated within or on the property line where it is being constructed. Walls and fences shall not be subject to any setback requirements.

(2) Height-Residential. Residential fences or walls shall have a maximum height of four feet in a front yard and six feet in height in any side or rear yards.

(3) Height-Nonresidential. Fences or walls shall have a maximum height of six feet in the front yard and eight feet in the side and rear yards.

(4) Materials. All fences shall be constructed with industry recognized materials designed to provide a permanent enclosure. No fences or walls shall be constructed of pallets, tires, or junk. No barbed wire or other potentially injurious or hazardous material shall be used as fencing or attached to any wall or fence.

(5) Retaining Walls. Retaining walls must be designed by a professional engineer registered in the Commonwealth of Pennsylvania and must contain adequate provisions for drainage. Any retaining wall exceeding six feet in height shall provide a continuous four feet high protective fence within one foot of the retaining wall edge and must comply with all requirements of the UCC. The use of retaining walls higher than six feet shall be permitted up to a maximum of 12 feet in height provided that:

A. The proposed height of the retaining wall is necessary to facilitate an efficient use of the lot and to protect an important or sensitive natural or cultural feature on the lot.

B. The applicant has submitted a written expert report from a professional engineer registered to practice within the Commonwealth of Pennsylvania. The expert report must conclude that the proposed retaining wall is designed and will be constructed to assure structural integrity and will in no way adversely affect any drainage pattern or underground utility lines nor interfere with any public rights-of-way.

C. The applicant has provided sufficient separation and physical barriers between the proposed retaining wall and any pedestrian and vehicle movement areas to ensure adequate vehicle and pedestrian safety.

D. That the base of the retaining wall is setback a horizontal distance at least equal to its height from each lot line.

(6) Fences or walls used as part of an active agricultural operation shall be exempt.

Section 413. Exemption-Public Utilities. With the exception of storage yards, the provisions and regulations of this ordinance 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 the 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. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of the party to the proceedings.

Section 414. On-Site Sewage Disposal. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the township's sewage enforcement officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection (DEP) prior to the issuance of a zoning permit.

Section 415. Road or Highway Occupancy Permit. Zoning approval for any proposed use or the development of a property, which includes the construction or relocation of a driveway onto a township road, county road or state legislative route, or highway shall be conditioned upon the applicant or property owner obtaining a permit from the applicable governmental agency.

Section 416. Exemption from Certain Side Yard Setbacks. Any structure proposed to be subdivided, containing two or more units, residential or nonresidential, shall be exempted from the governing side yard setback requirements under the Zoning Ordinance relative only to the interior side yards. When a side yard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval shall exempt the property from the necessity of obtaining a side yard variance from the Zoning Hearing Board for not having a side yard setback.

Section 417. Manufactured or Mobile Homes.

(1) Replacement of Non-conforming Manufactured Homes. The removal of a manufactured home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted without zoning hearing board approval provided that the new manufactured home is in conformity with all applicable setbacks, area, and bulk requirements for the zoning district in which it is located and undergoes and satisfactorily passes an inspection by the building code official.

(2) The construction, placement, or replacement of the manufactured home shall be done in accordance with the construction standards set forth in Section 417(3) below.

(3) Construction Standards. A manufactured home shall be set on a concrete frost-free footer with skirting made of brick, block or concrete wall, and any towing tongues, wheels and axles shall be removed from the manufactured home and the home must be secured with a safety strap or cable to the concrete footer or steel cross support. Only under these conditions shall a mobile home constitute a residence. The specifications of the footer and its depth shall be in accordance with the applicable building code.

Section 418. Number of Principal Uses or Structures on a Lot. When more than one principal use or structure is proposed on a lot, each principal use or structure on the lot shall meet the bulk and dimensional requirements of the zoning district in which the principal uses or structures are located.

Section 419. Screens and Buffers.

(1) Except as otherwise provided in this ordinance, all nonresidential uses or structures that adjoin a residentially zoned lot or residential dwelling unit shall provide the following on the nonresidential lot:

A. A visually solid and tight opaque fence not less than six feet in height screened to prevent the view from the residential use and zone; or

B. A natural wooded buffer or planting strip along the nonresidential use or zone that is six feet in height and five feet in width when planted to shield the residential use and zone from the proposed nonresidential use. The buffer or planting strip shall provide a substantial visual barrier. A planting and landscape plan must be submitted and approved by the zoning officer (for a permitted use), planning commission (for a subdivision or land development), the governing body (for a conditional use) or the zoning hearing board (for a special exception or variance) depending on the use. It is the responsibility of the landowner to maintain the buffer or planting strip in perpetuity. The wooded buffer or planting strip must remain undisturbed and free from the accumulation and disposition of garbage, refuse, junk, and other debris. The planting or maintaining of invasive plant species of Pennsylvania or noxious weeds are strictly prohibited as part of the buffer or planting strip. Every landowner shall destroy noxious weeds growing on a lot and cut and maintain grass and other vegetation on a lot in accordance with the municipal property maintenance code.

C. In the case of a land development, conditional use, special exception, or use variance, the approving body may require a fence or wooded buffer or planting strip or both depending on the type or intensity of the use.

D. The buffer and planting strip requirements of this subsection may also be required when a particular use requires a buffer or planting strip even though the use does not adjoin a residential use or zone.

(2) The fence, buffer, or planting strip, whichever is required, must eliminate views within 100 feet from the property lines or road right-of-way (public or private).

(3) In lieu of a fence, a low wall of brick or stone (not concrete block) at least 50 percent opaque, not less than three nor more than four feet in height may be used provided it achieves the screening requirements of this section.

(4) Evergreen or deciduous shrubs, trees or hedges shall be the types of plantings used to achieve the screening requirements of this section. Alternative types of plantings may be used to meet the screening requirements of this section. A berm with ornamental trees or grass may be used to meet the size requirements of the buffer or planting strip provided that the maximum slope of the berm shall not exceed 3:1. Planting shall be grouped or arranged to provide optimum growing conditions and reflect the natural character of the region.

(5) A natural wooded buffer may be used as a substitute to a planting strip only when the existing woodlands are healthy and their minimum quantities and visual effect equal or exceed the required planting strip.

(6) The screening requirements of this section are intended to eliminate the view of the nonresidential use from the residential use or zone.

(7) Mechanical equipment located on the roof of a building shall be screened to conceal the equipment from adjoining properties and the public view. Screening material shall consist of structural steel, steel studs, unit mounted screens (made of metal or aluminum strut members), or a trademarked roof screen system. Wood roof screening is prohibited. A parapet wall may also be used to achieve the screening requirements of this section.

(8) All accessory and principal structures shall be not less than 25 feet from any wetland, and 50 feet from streams, waterways, and water bodies.

#### Section 420. Adaptive Reuse of a Former School, Place of Worship or Industrial Building.

(1) As a special exception, where authorized by Article 3, the Zoning Hearing Board may approve the adaptive reuse of a building that was previously occupied as a primary or secondary school, place of worship, accessory building to a place of worship (such as a rectory or convent) or a principal industrial use. The Zoning Hearing Board may allow the conversion of the building into apartments, offices, personal service uses, retail sales use, community center, restaurant, exercise club, wedding chapel, banquet hall, funeral home, a personal care home, a nursing home or other uses that the Zoning Hearing Board determines are similar in impacts. The applicant shall not be required to show proof of hardship to gain approval under this Section.



(2) The approval shall specify the maximum number of dwelling units approved on the lot. A minimum lot area per dwelling unit is not specified, but the Zoning Hearing Board shall consider reasonable use of the property in determining a maximum density. The intent is to allow a higher density for dwelling units that are age restricted or that include only one bedroom.

(3) An addition of up to 20 percent of the existing floor area may be approved as part of this approval. Any larger addition shall comply with the zoning district regulations.

(4) Upon request of the applicant, the Zoning Hearing Board may modify off-street parking requirements as part of this approval. The applicant shall provide testimony that they have considered all reasonable alternatives to provide parking to meet Section 701 of this ordinance, and that the modification of parking requirements will not create a serious shortage of on street parking in the neighborhood.

(5) The applicant shall describe in writing on a plan any measures that will be used to preserve historic architectural features of the building.

(6) A building addressed by this section may also be converted into a single-family detached dwelling as by right without having to meet any zoning regulations, other than obtaining a permit.

Section 421. Composting. The composting of biodegradable vegetative material such as trees, shrubs, leaves and vegetable waste, which do not contain garbage or animal fats shall be permitted as an accessory use in all zoning districts provided that:

(1) The composting is conducted in such a manner as not to create any health, welfare or safety concerns.

(2) Any composting of manure shall be restricted to lots where:

A. Agriculture is a use permitted by right.

B. The lot size is a minimum of 5 acres.

C. The setback from any adjoining street or property line is at least 200 feet.

D. The composting comply with the published manure management standards of the Pennsylvania State University Cooperative Extension Service.

(3) No permit shall be required to compost.

(4) Commercial composting shall only be permitted by special exception in the I-1 Zoning District.

Section 422. Non-Commercial Satellite Dishes and Standard Antennas. A non-commercial satellite dish antenna including amateur television and radio antennas shall be permitted as an accessory use in all zoning districts provided the following requirements are met:

(1) A ground-mounted satellite dish antenna must in a side or rear yard only not less than 15 feet from a rear yard property line and 10 feet from a side yard property line and cannot exceed an overall diameter of 12 feet or an overall height of 15 feet.

(2) A roof-mounted satellite dish antenna is permitted provided it is less than three feet in diameter and properly attached to a roof or secured to a structure at a height of not more than four feet.

(3) No more than one dish or antenna shall be permitted for each single-family residential dwelling unit, two for two-family dwelling units, and one for each unit of a multi-family dwelling unit.

(4) No more than two dishes or antennas shall be permitted per non-residential building.

(5) A satellite dish or antenna may not require a zoning permit under this ordinance.

Section 423. Uses Not Listed or Addressed Within this Ordinance. A use not listed in any of the zoning districts shall be classified as a special exception use permitted in the I-1 Zoning District. The zoning hearing board, in addition to the special exception criteria, shall require that the applicant also prove:

(1) The proposed use is less intensive than other principal permitted uses within the zoning district.

(2) The proposed use is similar and compatible to other principal permitted uses within the zoning district.

(3) The proposed use is not listed in any zoning district and is not similar to a use listed in any zoning district.

(4) The proposed use does not interfere or conflict with the general purposes, community development objectives or intent for which this Ordinance has been adopted.

(5) The proposed use meets the standards for a special exception use under this Ordinance.

Section 424. Recreational Vehicles. Any recreational vehicle which is not licensed, registered and inspected shall not be permitted on any lot except where permitted by the regulations concerning Junk Yards, Automobile Dismantling Plants or Automobile Salvage Yards and the lot employs such use. If stored on property in which the permitted use is residential, the licensed, registered and inspected recreational vehicle shall be stored in a structure or within a rear yard or driveway. No recreational vehicle may be used as a dwelling unit except in a permitted recreational vehicle park.

Section 425. Lighting.

(1) All outdoor lighting shall be directed away from public right of ways and adjoining properties so that the lighting does not present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or properties (nuisance glare).

(2) No direct reflected glare, whether from any lighting source or production operation, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

(3) An outdoor lighting plan shall be required with a zoning permit application when outdoor lights are proposed or required. If the proposed use is permitted by special exception or conditional use, the applicant shall present the outdoor lighting plan as part of the application for a special exception or conditional use. If the proposed use is as of right but requires subdivision or land development approval, the applicant shall submit the outdoor lighting plan with the subdivision or land development plan for approval as part of the subdivision or land development plan. Outdoor lighting plans shall include a detailed grid of illumination levels, a calculation as to the average illumination levels, the number of lighting fixtures, the height and location of the mounting fixtures, including the underside of any canopies, details as to how lighting will be recessed, shielded and banded, when required, as well as details of any building or canopy-mounted lighting to show compliance with this section.

(4) In no case shall illumination exceed 0.5 foot-candles measured at the lot line and 0.2 foot-candles at 10 feet from the lot line onto an adjoining lot. The amount of illumination projected onto a residentially zoned or used lot from another lot shall not exceed 0.2 foot-candles at the lot line.

(5) For the lighting of roadways, pathways and parking areas fixtures shall meet the Illuminating Engineering of North America (IESNA) cutoff criteria (not have more than two and one-half percent of their light output emitted above 90 degrees at any lateral angle around the fixture). The use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes, and other fixtures not meeting IESNA cutoff criteria shall not be permitted. Fixtures shall be equipped with light directing devices such as shields, visors, or hoods when necessary to redirect offending light distribution. Lighting standards in public parking areas shall be a minimum of five feet outside the paved area,

behind curb stops or on reinforced concrete pedestals at least 30 inches in height above the pavement. Lighting fixtures shall not be mounted in excess of 25 feet above grade. All newly constructed electrical feeds shall be underground.

(6) No luminaire, spotlight or other light source that is within 200 feet of a lot line of an existing dwelling unit or approved residential lot shall be placed at a height exceeding 20 feet above the average surrounding ground level. This limitation does not apply to lights needed for air safety, lights intended solely to illuminate an architectural feature of a building, or lighting of outdoor public recreation facilities.

(7) All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings, or adjacent lots.

(8) All light sources, including signs, shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings or persons enjoying outdoor passive recreation areas, and to prevent the lighting from shining into the eyes of passing motorists.

(9) Flashing, flickering, or strobe lighting are prohibited, except for non-advertising seasonal lights between October 25<sup>th</sup> and January 10<sup>th</sup>.

(10) Exterior lighting on an institutional, commercial, or industrial property shall not cause a spillover of light onto a residential lot that exceeds 0.2 foot-candles at the residential property line. Exterior lighting shall not cause a nighttime spillover of light that exceeds five horizontal foot-candles onto a street.

(11) Light fixtures under commercial canopies (such as over gasoline pumps) shall be placed so that the cover is recessed or flush with the bottom surface of the canopy shielded by the edge of the canopy so that light is restrained to no more than 85 degrees from vertical.

Section 426. Minimum Floor Area for Dwelling Units. A dwelling unit must comply with the following minimum habitable floor area:

Type of Dwelling Unit	Minimum Size Per Dwelling Unit
Single-family and Two-family Dwelling Unit	900 square feet (except for a permitted Tiny House under Section 427 below)
Multi-family Dwelling Unit	750 square feet

Section 427. Tiny Houses.

(1) A tiny house shall have an exterior width of not less than eight and a half feet and no more than 20 feet.

(2) A tiny house shall have a gross floor area of not less than 170 square feet per occupant.

(3) The sleeping room area of a tiny house shall not be less than 120 square feet.

(4) A tiny house ceiling height shall not be less than 7 feet and the maximum house height may not be more than 25 feet.

(5) A tiny house shall be serviced with public or on site water service and public or on-site sewer service, and must include functional cooking, sleeping, toiletry, and living areas that support normal daily residential activities.

(6) Tiny houses on wheels shall:

A. Be affixed to a permanent foundation. The foundation shall form a complete enclosure under the exterior walls, and be skirted with brick, block or concrete wall, and any towing tongues, wheels and axles shall be removed from the tiny house and the house must be secured with a safety strap or cable to the concrete footer or steel cross support. Only under these conditions shall the tiny house constitute a residence. The specifications of the footer and its depth shall be constructed under the applicable building code and pass a satisfactory inspection by the building inspector or building code official.

B. Not be designed to move under their own power.

(7) Tiny houses shall only be permitted in the C-1 and A-1 Zoning Districts, not in R-1 and R-2 Zoning Districts.

(8) Each tiny house lot within a tiny house development shall meet the following dimensional requirements:

A. A minimum lot size of 3,500 square feet.

B. Lot coverage shall not exceed 40%.

C. Minimum lot width may not be less than 30 feet.

D. Minimum lot setbacks for a tiny house within a tiny house development only shall be not less than 20 feet from a front yard, five feet from a side yard, and 15 feet from a rear yard.

**ARTICLE 5**  
**NONCONFORMING LOTS, STRUCTURES AND USES**

Section 501. Nonconforming Lots of Record.

(1) Lots of Record. A structure may be built on a lot of record existing as of the effective date of this Ordinance even though the lot does not meet the minimum requirements for lot area or lot width as established for the zoning district in which the lot is located provided that the structure conforms to all other dimensional requirements for that zoning district including the minimum front, side and rear yard setbacks.

(2) Contiguous Lots of Record. If two or more contiguous lots of record in single ownership exist as of the effective date of this Ordinance and those lots do not meet the required minimum lot area or lot width, then the lots shall be considered to be an undivided parcel and no portion of that parcel shall be used or sold in a manner which further diminishes compliance with the dimensional requirements of the zoning district in which such parcel is located.

Section 502. Continuation of Nonconformities. Except as otherwise provided in this ordinance, any lawful nonconforming use, structure, or lot which fails to conform to the requirements of this ordinance shall be permitted to continue.

Section 503. Change of Nonconforming Uses. Upon application for a special exception, the Zoning Hearing Board may approve the change from one nonconforming use to another nonconforming use if the following are met:

- (1) No structural alterations are made.
- (2) The proposed use is less objectionable than the existing nonconforming use.
- (3) The proposed use is more compatible with the character of the neighborhood than the existing nonconforming use.
- (4) There is no increase in vehicular and pedestrian traffic and the proposed use will not cause any traffic problems, hazards, or congestion.
- (5) There is no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- (6) There will be no increase threat to the public health, safety, welfare or morals.
- (7) There will be no further depreciation in market value to other properties in the neighborhood.

(8) There is no public danger by the use of hazardous substances or explosive materials.

(9) There is no outdoor storage unless the existing nonconforming use had outdoor storage and only then will outdoor storage be permitted provided that the outdoor storage is not hazardous, entirely enclosed, and located in the rear yard.

(10) The general, specific and supplemental criteria for the granting of a special exception have been met.

(11) The nonconforming use shall not be changed to a nonconforming adult use.

(12) The hours of operation of the proposed use are not greater than the hours of operation of the existing nonconforming use.

#### Section 504. Enlargement or Expansion of Nonconforming Uses and Structures.

(1) Upon application for a special exception, the zoning hearing board may approve the expansion or enlargement of a nonconforming use or structure provided the following provisions are met:

A. The expansion or enlargement must be confined to the lot on which the nonconforming use is located at the effective date of this ordinance. No expansion or enlargement to an adjoining lot shall be permitted, even if such lot was in the same ownership at the effective date of this ordinance.

B. The enlargement will not replace a conforming use.

C. The nonconforming structure or use, after enlargement, shall comply with the bulk, dimensional, parking and loading requirements applicable to the zoning district in which the structure or use is located.

D. The total of all such enlargements or expansions shall not exceed an additional 35% of the floor area or land area as it existed at the time the structure or use first became nonconforming.

E. The expansion may not create any new dimensional nonconformities or further increase existing dimensional nonconformities.

F. The appearance of the structure must be harmonious with the neighborhood. This feature includes landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control, and maintenance in good condition of all improvements, and open spaces.

G. Buffers and screens consisting of fences, walls, plantings, or open space shall be provided as may be necessary to adequately obstruct the view of neighboring properties.

H. The general, specific, and supplemental criteria for the granting of a special exception is met.

(2) Expansion Not Within Setback Which Renders Structure Nonconforming.

In the case of a structure in which the only nonconformity is that it does not meet a setback requirement, the landowner need only apply to the zoning officer for the expansion or enlargement of the nonconforming structure which expansion or enlargement, with the exception of the original setback nonconformity, complies with all of the requirements applicable to the zoning district in which the structure or use is located. The zoning officer rather than the zoning hearing board may approve or deny the expansion or enlargement of the nonconforming structure. This paragraph shall not be construed to permit the landowner to apply to the zoning officer rather than the zoning hearing board where the landowner seeks to expand or enlarge within the original setback with which the property did not conform.

(3) Expansion Within Setback Which Renders Structure Nonconforming.

In the case of a structure in which the only nonconformity is that it does not meet a setback requirement and the landowner seeks to expand or enlarge within the original setback with which the property did not conform and where, with the exception of the original setback nonconformity and proposed expanded nonconformity within the same setback, the expansion or enlargement of the nonconforming structure complies with all of the requirements applicable to the zoning district in which the structure or use is located, the landowner need only apply to the zoning officer for same. The zoning officer rather than the zoning hearing board may approve or deny the expansion or enlargement of the nonconforming structure. The zoning officer may approve same if he/she does not receive a written objection within 30 days from the date notice is sent via U.S. First Class Mail to owners of abutting lots. If the zoning officer receives an objection within 30 days, zoning hearing board approval shall be required for expansion or enlargement of the nonconforming structure. This paragraph shall not be construed to permit the landowner to apply to the zoning officer rather than the zoning hearing board where the landowner seeks to expand or enlarge within the original setback with which the property did not conform in the direction of the lot line used in calculating said setback thereby further reducing the distance between the building line and said lot line.

(4) In the case of a structure which is used for a nonconforming use or where the proposed enlargement or expansion of the nonconforming structure does not meet the requirements of Section 504(2) above, any enlargement or expansion of a nonconforming structure shall require zoning hearing board approval and meet the requirements of Section 504(1).

(5) A second floor may be added directly above an existing first floor of a nonconforming structure provided that the other requirements of this ordinance are met.



Section 505. Restoration of Nonconforming Uses and Structures. If any nonconforming use or structure is destroyed by reason of windstorm, fire, explosion, or other similar act, or by any act of God or public enemy, the nonconformity may only be rebuilt, restored, repaired, or reused provided it is done within the existing building envelope.

Section 506. Unsafe Nonconforming Structures. If a nonconforming structure becomes physically unsafe due to neglect or lack of maintenance and repairs, uninhabitable, or has been legally condemned pursuant to the provisions of the applicable property maintenance or building code, then the structure and its use shall be deemed terminated, and the use shall cease and the structure shall not thereafter be restored, repaired, rebuilt or used except in conformity with the provisions of this ordinance.

Section 507. Abandonment.

(1) A nonconforming use shall be terminated and not permitted to resume if that nonconforming use is abandoned.

(2) A nonconforming use shall be considered abandoned when there occurs an intent by the owner of the nonconforming use to abandon that use, or cessation of the use or activity has been shown by an overt act, apparent act, or failure to act on the part of the user or owner of the nonconforming use for a period in excess of 12 months measured from the date of cessation or discontinuance. The use shall not thereafter be reinstated and the structure, if any, shall not be reoccupied or used except in conformity with this ordinance.

(3) A user and owner of a nonconformity shall file a written request with the Zoning Officer to discontinue a nonconformity for a period of more than 12 months whenever the user and owner of the nonconformity intends on resuming the nonconformity sometime after that 12 month period. The request must be renewed every 12 months. The request shall include the reasons for discontinuing the nonconformity and the anticipate date that such nonconformity will resume. The nonconformity shall be deemed abandoned for a failure to file such a written request with the zoning officer.

Section 508. Reversion. No nonconformity shall, if once changed to conform to this Ordinance or changed to another nonconformity, be changed back again to a nonconformity or the previous nonconformity.

Section 509. Registration of Nonconforming Uses, Structures and Lots.

(1) The zoning officer may prepare and maintain an accurate list of all nonconformities.

(2) The zoning officer or the property owner may initiate the process of registering a nonconformity.

(3) The zoning officer shall issue a certificate of nonconformity where the zoning officer finds through credible and reliable evidence that the nonconformity, although not in compliance with all applicable requirements of the zoning district in which the property is located, is lawful.

(4) All forms for the issuance of a certificate of nonconformity shall be supplied by the zoning officer, and any documents relied upon by the zoning officer in issuing the certificate of nonconformity shall be attached to the Certificate.

(5) The fee for registering the nonconformity shall be established by resolution of the township board of supervisors.

(6) A user and owner of a nonconformity shall notify the zoning officer of any abandonment of a nonconformity in writing.

Section 510. Uses Not Considered Nonconforming Uses. Any building, structure or lot that is permitted by variance, special exception, or conditional use under this or any previous municipal zoning ordinance may not be deemed a nonconforming use, but a permitted use.

Section 511. Reversion of a Nonconformity. A nonconformity, when changed to conform to this ordinance or changed to another nonconformity with approval of the zoning hearing board, may not then return to the previous nonconformity. This section may not preclude a landowner from obtaining a variance, special exception or conditional use under the requirements of this ordinance.

Section 512. Nonconforming Reduction. Any dimensional nonconformity may be reduced without zoning hearing board approval and with the issuance of a permit by the zoning officer, provided that the demolition reduces the dimensional nonconformity even if it does not eliminate the entire dimensional nonconformity.

**ARTICLE 6**  
**SIGN REGULATIONS**

Section 601. Definitions. For purposes of this Article:

“Awning”- means secondary covering attached to the exterior wall of a building.

“Billboard”- means a sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment, or development not related to, sold, offered, prepared, or manufactured on the lot where the sign is located.

“Business sign”- means a sign which communicates information concerning a business, profession, commodity, service, entertainment, or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located, or a permanent sign identifying the name of a subdivision of three or more contiguous lots.

“Canopy”- means an overhead roof or structure that provides shade or other shelter.

“Canopy sign”- means a sign that is incorporated into an awning or canopy that is attached to the building.

“Construction sign”- means a temporary sign erected on property where construction is taking place, indicating the name of the person performing the construction, architectural, engineering, or inspection activities or services.

“Directional or informational sign”- means a sign containing no advertising material and limited to information and directions necessary for visitors entering or exiting a property, including signs marking entrances and exits, parking areas, circulation direction, restrooms, and pick-up and delivery areas.

“Event sign”- means a temporary sign advertising events such as picnics, carnivals, bazaars, game nights, arts and crafts and similar types of funding raising events, yard sales and political signs.

“Flat roof sign”- means a sign that has its longest axis along the same direction as the roof to which it is attached and does not project beyond the outside edges of the roof line in any direction.

“Flat wall sign”- means a sign that is attached to the wall of a building and whose face runs parallel to the wall to which it is attached and does not extend beyond the outside of the edges of the wall in any direction.

“Freestanding sign”- means a sign that has a separate support structure and is not physically attached to a building.

“Institutional sign”- means a sign which identifies a use pertaining to a school, church, hospital, governmental service or other institution of a similar public or semi-public nature.

“Name plate or identification sign”- means a sign which communicates the name address of an occupant or a permitted home occupation upon the lot on which the sign is located.

“Neon Sign”- means luminous tube signs that contain neon or other inert gases at a low pressure.

“Projecting roof sign”- means a sign whose support structure is attached to the roof of a building and whose face either runs generally perpendicular to the roof line or its underlying wall or extends beyond the outside edges of the roof to which it is attached.

“Projecting wall sign”- means a sign whose support structure is attached to the wall of a building and whose face either runs generally perpendicular to the wall or extends beyond the outside edges of the wall to which it is attached.

“Real estate sign”- means a temporary sign which advertises the sale, rental or development of the premises upon which the sign is located.

“Shopping center or strip mall sign”- means a marquee type sign advertising a group of more than three contiguous and different non-residential uses originally planned and developed as a single unit having a total floor area of not less than 10,000 square feet.

“Signs”- includes any object, structure, display, device, or part thereof, designed or intended to advertise, identify, or convey information to the public by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

“Sign construction types”- includes canopy sign, flat roof sign, free standing sign, projecting roof sign, project wall sign and window sign.

“Sign gross surface area”- means the entire face of a sign, including the advertising surface and any framing, trim or molding, but not including any structural supports that do not contain lettering, wording, numerals, designs, or symbols. Signs may contain several signs provided they share the same structure or structural supports with the total sign area being the area of a common geometric form that could encompass all signs. The area for a sign either attached or painted on a wall or building is the smallest rectangle that includes the letters, words, numbers, designs, and symbols.

“Sign height”- means the height of a sign shall be measured from the average ground level beneath the sign to the highest point of the sign. The ground level shall be

the lower of the ground level existing at the time of construction or the ground level existing prior to construction and prior to any earth disturbance at the site. This prior ground level may be established by any reliable source, including, without limitation, existing topographic maps, aerial photographs, photographs of the site, or affidavits of people who are personally familiar with the site.

“Sign type classifications”- include billboard, business sign, construction sign, directional or information sign, event sign, institutional sign, name plate or identification sign, real estate sign and shopping center or strip mall sign.

“Window sign”- means a sign that is either located on the inside or outside surface of a window.

Section 602. Exempt Signs. The following signs are not subject to the regulations of this Article and do not require a zoning permit:

- (1) National or State Flags.
- (2) Window displays or other signs erected inside a structure or that cannot be seen from outside a structure.
- (3) Governmental signs and other signs required by a governmental agency authorized for a public purpose by law, statute, ordinance, regulation, or policy.
- (4) Athletic scoreboards if the sponsor advertising on the sign does not exceed 25 percent of the surface area of the sign, or any other sign advertising a sponsor and erected in a public recreational facility such as the signs attached to the outfield fences in a baseball field.
- (5) Warning signs, no trespassing signs, no parking signs, towing signs, beware of dog, posted, private property, and other similar signs if they are constructed in accordance with state law and do not exceed two square feet in gross surface area for each exposed face, or an aggregate gross surface area of four-square feet.
- (6) Parking lot directional signs containing no advertising either erected pursuant to an approved land development plan, or signs otherwise designating parking area entrances and exits limited to one sign for each entrance and exit and not exceeding four square feet in gross surface area for each exposed face and not exceeding five feet in height.
- (7) Parking lot and loading zone instructional signs either erected pursuant to an approved land development plan, or signs otherwise identifying a parking lot area and not exceeding eight square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of 16 square feet, and not projecting higher than 10 feet for walls signs and seven feet for ground signs.

(8) Memorial signs such as grave markers that are not commercial in nature and erected for the purpose of remembering a person or an event.

(9) Name and address signs identifying the name and address of the owners or occupants, including those signs erected for 911 purposes provided that the signs do not exceed two square feet in gross surface area for each exposed face and having an aggregate gross surface area of four-square feet.

(10) Holiday signs, which are erected as a decoration to temporarily display a traditionally accepted civic, patriotic, or religious holiday related to observance of the civic, patriotic, or religious holiday.

(11) Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two square feet in gross surface area for each exposed face and not exceeding four square feet in aggregate gross surface area.

(12) Permanent, non-flashing signs, on gasoline pumps, vending machines, or other similar devices indicating only the contents of the device, the pricing of the contents, directional and instructional information as to the use of the device, and other similar non-advertising information not exceeding four square feet in gross surface area for each exposed face and not exceeding an aggregate gross surface area of eight square feet.

(13) Political signs provided that the political signs are removed within 10 days following the election for which the sign was erected.

(14) Real estate signs provided that no more than one sign is located on the property intended for sale, except on a corner lot two signs shall be permitted. A real estate sign shall not exceed 12 square feet for a residentially zoned property and 32 square feet for a non-residentially zoned property.

(15) Construction site signs identifying an architect, engineer, or contractor when placed on a construction site and not exceeding 12 square feet in area only during the construction process.

Section 603. Prohibited Signs. Unless otherwise permitted by another municipal ordinance, the following signs are prohibited in every zoning district:

(1) Signs which are constructed, erected, placed, or installed and obstruct or distract motorists or pose a threat to pedestrian or vehicular travel.

(2) Signs which:

A. Have spinners, reflectors, or similar materials displayed outside a building.

- B. Emit smoke, visible vapors, particles, sound, or odor.
- C. Are inflatable except those associated with exempt holiday decorations.
- D. Contain an open flame in a way to attract attention.

(3) Except for time and temperature indicators with digital or analogue movement, signs shall not contain moving parts or use flashing, sequential or intermittent illumination. The source of light shall be steady and stationary.

(4) No sign shall be constructed, placed, erected, or maintained which either because of its illumination, or location, poses a danger to vehicular or pedestrian traffic, or obstructs free ingress to or egress from any window, door, emergency exit, or fire escape.

(5) No sign other than an official traffic sign or political sign may be erected within the right-of-way line of any street, including sidewalks and walkways.

(6) Signs which imitate, interfere with, or obstruct the view of an official traffic sign or signal are prohibited. In addition, any sign because of its design or location that may be confused with an official traffic sign or signal are also prohibited.

(7) Off-premises advertising on an automobile, truck, or other vehicle is prohibited if that vehicle is parked for no other purpose than to advertise for a period of three or more consecutive days, or more than one day for any 30-day period per year, or the vehicle is otherwise being used primarily for displaying such sign, and the vehicle is parked in or visible from a public right-of-way.

(8) Portable and wheeled signs.

(9) A frame or sandwich board and sidewalk, or curb sign.

(10) Banners, pennants, streamers, balloons, and gas filled signs or figures.

(11) Projecting signs which are attached to a building and project more than 15 inches beyond the wall surface of the building to which the sign is attached.

(12) Signs which are attached to a tree or utility pole unless the owner of the telephone pole agrees to the attachment. No sign shall be painted, pasted, nailed, stapled, or otherwise attached to utility poles, trees, fences, fire hydrants, or in an unauthorized manner to walls or other signs.

(13) No sign shall be placed to obstruct ventilation or light from a building.

(14) No sign shall include statements, words, or pictures that are vulgar, obscene, or pornographic. No sign shall depict specified anatomical areas or specified sexual activities.

(15) Any nonconforming sign that is prohibited under this Section may continue to exist, but may not be moved, altered, repaired, or replaced except in conformity with this Article.

**Section 604. Permitted Signs.** The placement, construction, relocation, or alteration of signs shall require a zoning permit and shall be governed by the following Table:

Sign Type	Permitted Zone	Maximum Number of Signs	Maximum Sign Area	Maximum Height of Freestanding Signs	Maximum Height of Wall, Window or Roof Signs	Maximum Projection from Wall	Minimum Setbacks for Freestanding Signs
Billboard	I-1/B-1	1 per lot	300 sq. ft.	25 ft.	Not Permitted	Not Permitted	15 ft.
Business	B-1 C-1 I-1	2 per lot or building	16 sq. ft. with no more than 3 window signs per building	10 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	5 ft.
Directional or Informational	All Zones	4 per use	2 sq. ft. per sign unless not legible from a street than no more than 8 sq. ft.	5 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	2 ft.	1 ft.
Institutional	All Zones	1 per principal building	32 sq. ft. or 64 sq. ft. each exposed side	15 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	5 ft.
Name Plate or Identification	All Zones	1 per dwelling unit	6 sq. ft.	8 ft.	8 ft.	NP	2 ft.
Shopping Center or Strip Mall	B-1	1 per lot with unlimited wall or window signs	200 sq. ft.	22 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	10 ft.
Special Event	All Zones	None	16 sq. ft.	10 ft.	Top of the wall for a wall sign. Roof signs NP.	2 ft.	1 ft.

**Section 605. Supplemental Sign Regulations.**

(1) Sign Regulations Generally. Except as otherwise provided in this ordinance, signs may only be constructed, relocated, altered, placed, or maintained when in compliance with the following:

- A. Lighting. A sign:
  - i. With lighting shall be steady and stationary and constructed and maintained so that all lighting is shielded and directed away from public rights-of-ways and adjoining properties.



- ii. May not include a revolving beam or beacon of light resembling an emergency vehicle or facility.
- iii. Incorporating LCD, LED, plasma, CRT, pixelated lights, or other animated or video-like displays and projected displays shall be limited to the B-1 and I-1 zoning districts and shall:
  - a. Consist of size lettering and symbols so it could be immediately recognized by motorists.
  - b. Display simple and static messages for immediate recognition by motorists. Messages shall be complete in each display cycle and shall not require viewers to see multiple display cycles to derive its meaning.
  - c. Use instantaneous transitions from one message display cycle to the next with no blank-outs, scrolling, fading, streaming, zooming, flashing or any other animated effect to facilitate immediate recognition by motorists.
  - d. All properties utilizing a dynamic message display sign must remove all exterior promotional banners, sandwich board signs, and may not use any temporary signage.
  - e. Each message display cycle shall comply with the following minimum time standards: total sign area with up to 64 square feet: 17 seconds; total sign area with between 64; and 300 square feet: 28 seconds.
- B. Corner Lots. When one sign is permitted, and the sign is to be erected on a corner lot, a second sign shall be permitted of equal size so that each sign may face a street. Where two signs are permitted this special rule for corner lots shall not apply since three signs on a lot are allowed.
- C. Construction Materials. All signs shall be constructed of durable materials, maintained in good condition, and secured in a safe manner. The areas surrounding all signs shall be maintained in a neat, clean, and attractive condition.
- D. Compliance with Other Laws.

- i. If the Pennsylvania Highway Beautification Program or another law or regulation has a more restrictive regulation governing signs, then the more restrictive regulation shall apply.
- ii. No sign shall advertise activities or products that are illegal under federal, state, or local municipal laws or regulations.
- iii. A sign must be erected in accordance with the applicable building and electrical codes, when applicable.

(2) Specific Regulations for Certain Signs.

A. Event Signs.

- i. All temporary event signs may be erected and maintained for a period not to exceed 30 days prior to the special purpose, occasion or event and shall be removed by the property owner or person erecting, placing or maintaining the sign within seven days following the completion or conclusion of the purpose, occasion or event, or within three days following the date when the circumstances leading to their erection no longer apply.
- ii. Event signs erected on private property must be located at least 10 feet from another sign.

B. Billboards.

- i. A billboard shall be located on a vacant lot, or a lot developed to less than two-thirds of the permitted building coverage.
- ii. A billboard may not be located within 150 feet from any residential structure and street intersection.
- iii. A billboard shall be a minimum of 500 feet from another billboard.

Section 606. Nonconforming Signs.

(1) Continuation. An existing nonconforming sign related to a legally established use may be continued at its present dimensions and location but may not be enlarged without conforming to the dimensional sign requirements of this Article.

(2) Identification and Registration. The zoning officer or a landowner may initiate the process of registering a nonconforming sign. A certificate of nonconformity shall be issued when the zoning officer determines that the nonconforming sign, although not in compliance with all applicable requirements of the zoning district in which the sign is located, is lawful.

(3) Moving. No nonconforming sign shall be moved to another location on a building or lot on which it is located after the effective date of this ordinance unless it can be made to conform to the sign regulations of this Article.

(4) Alterations or Repairs. A nonconforming sign may be continued if it is not structurally altered. The zoning officer may permit the repair of a sign provided that the sign is not enlarged or moved.

(5) Restoration. If any nonconforming sign is damaged to the extent of 50 percent or more of its replacement costs determined at the time of construction, such sign shall not be restored or replaced except in conformity with the sign regulations of this Article.

(6) Discontinued. Whenever any use of a building, structure, or land, or combination thereof, ceases, all signs accessory to such use shall be deemed to be abandoned and shall be removed within 90 days from the discontinuance of the use.

(7) Unsafe or Unlawful Signs. If a nonconforming sign becomes unsafe due to neglect or lack of maintenance or has been declared unsafe under any applicable property maintenance or building code or ordinance, and the landowner fails to repair the sign after notice from the zoning officer, then the sign shall be deemed abandoned, and must be removed. Any repair performed under this section shall not result in enlarging or moving of the sign.

**ARTICLE 7**  
**PARKING AND LOADING**

**Section 701. Off-Street Parking.**

(1) **Size of Off-Street Parking Spaces.** Each off-street parking space shall have an area of not less than 180 square feet, being nine feet in width and 20 feet in length, exclusive of access drives or aisles appurtenant to the space and giving access to it. The width of off-street parking spaces for uses with a high customer turnover rate such as a convenience store or a fast-food restaurant shall be increased to 10 feet.

(2) **Width of Driveway Aisles.** The minimum width of aisles providing access to the parking spaces, with one-way traffic, varying with the angle of parking, shall be:

<b>Angle of Parking</b>	<b>Minimum Aisle Width One-Way Traffic</b>	<b>Minimum Aisle Width Two-Way Traffic</b>
45 degrees	14 feet	24 feet
60 degrees	18 feet	24 feet
90 degrees	20 feet	24 feet

3) **Minimum Required Spaces.** Any structure, building or use of land hereafter constructed, erected, converted, enlarged, or placed into use shall comply with the minimum off-street parking spaces of this ordinance. If any structure, building or use of land contains more than one of the following classified uses, then required parking for each specific use shall be provided. Parking spaces in carports, garages, and driveways for single-family, two-family and townhouses may be counted towards the parking requirement. Each specific use shall have the minimum required number of off-street parking spaces as provided in the following table:

<b>Type of Use</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
<b>Residential Uses</b>	
Single-Family Dwelling Unit	2 spaces for each dwelling unit.
Two-Family Dwelling Unit	2 spaces for each dwelling unit (minimum of 4 total).
Multi-Family Dwelling Unit	2 spaces for each dwelling unit plus .25 spaces for each dwelling unit.
Dwelling Above Business	2 spaces for the dwelling unit plus the minimum number of required spaces required for the type of business.
Manufactured Home	2 spaces for each manufactured home.
Home Occupation	1 space for the home occupation plus the number of spaces required for the type of dwelling unit.
No-impact Home Occupation	Required number of spaces for the type of dwelling unit
Manufactured Home Community	2 spaces for each manufactured home.
Playground/Park	10 spaces for each acre of land.
Recreational Cabin, Private	2 spaces for each cabin
Retirement Community	1 space for each dwelling unit.
Short-term Rental	Required number of spaces for the dwelling unit plus 1 space for each tenant and guest or the minimum required to prevent on-street parking, whichever is greater.
Student Housing	1 space for each student.

<b>Commercial Uses</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
Adult Care Center	1 space for each employee, plus 1 space for every five adults, based upon the maximum number of adults the center serves.
Adult Use	1 space for every 300 square feet of gross floor area.
Airport	1 space for every 300 square feet of gross floor area for short-term parking and 1 space for every 600 square feet of floor area for long-term parking.
Animal or Veterinarian Hospital or Clinic	5 spaces for each veterinarian or doctor.
Animal Daycare	1 space for each employee, plus 1 space for every five animals cared for daily.
Animal Kennel	1 space for each employee, plus 1 space for every five animals to be boarded.
Assisted Living Residence	1 space for every five beds, plus one space for each employee on the maximum working shift.
Auditorium, Arena, Performing Arts Center or Exhibition and Trade Show, Stadium	1 space for every three seats.
Automobile, Boat, Equipment, Home, and Recreational Vehicle Sales	5.5 spaces for every 1,000 square feet of gross floor area.
Automobile Detailing Shop	1 space for each stall, bay or car area.
Automobile Parts and Supplies	4 spaces for every 1,000 square feet of gross floor area.
Automobile Repair Garage	5 spaces for every 1,000 square feet of gross floor area.
Automobile Service Station	3 spaces for each service stall, bay and gas pump, plus 1 space for each employee on the maximum working shift.
Automobile Storage Compound	1 space for every six vehicles capable of being impounded, plus 1 space for each employee.
Bank or Financial Institution	1 space for every 300 square feet of gross floor area for walk-in only, or 1 space for every 200 square feet of gross floor area with a drive thru.
Banquet Hall	1 space for every three seats.
Bar	1 space for every two seats, plus 2 spaces for every three employees on the maximum working shift.
Bed and Breakfast	1 space for each room, plus 1 space for each employee and resident employee.
Betting Use	1 space for every two seats, plus 2 spaces for every two employees on the maximum working shift.
Boarding or Rooming House	1 space for each room, plus 1 space for each permanent resident.
BYOB Club, Bottle Club or Night Club	14 spaces for 1,000 square feet of gross floor area, which includes outdoor decks, patios, and seating areas.
Car Wash	2.5 spaces for each bay or stall.
Catering for Off-Site Consumption	1 space for each employee, plus 3.
Cemetery or Mausoleum	1 space for every 15 gravesites.
Check Cashing Business	1 space for every 300 square feet of gross floor area.
Childcare Center	1 space for each employee, plus 1 space for every five children, based on the maximum number of children the center serves.
Community Center	1 space for every three seats.
Construction Company or Tradesperson's Principal Office	1 space for each employee.
Contractor Storage Yard	1 space for each employee.
Convenience Store	4 spaces for every 1,000 square feet of gross floor area.
Convenience Store with Gasoline	4 spaces for every 1,000 square feet of gross floor area, plus one space for each gas pump.
Correctional Facility	1 space for each employee on the maximum shift, plus 1 space for every five detainees or inmates.
Drive-In/Thru Use	1 space for every 100 square feet of gross floor area for a use other than a drive thru financial institution or restaurant.
Emergency Services	1 space for every 100 square feet of gross floor area.
Fairgrounds	1 space for every eight fixed seats, plus 1 space for every 100 square feet of assembly area.

Family Childcare Home	The minimum number of spaces for the dwelling unit plus one space for every two children able to be cared for in the home.
Fitness Club	1 space for every 300 square feet of floor area.
Flea Market, Auction House, Fairground, or Outdoor Theatre	1 space for every eight fixed seats, plus 1 space for every 100 square feet of assembly area.
Funeral Home	1 space for every 100 square feet of gross floor area.
General Office	2.5 spaces for every 1,000 square feet of gross floor area.
Grocery Store	5 spaces for every 1,000 square feet of gross floor area.
Group Childcare Home	1 space for every three customers, plus 1 space for each employee.
Group Home	1.5 spaces for each bedroom.
Half-Way House	1.5 spaces for each bedroom.
Health Care Campus	1 space for every 100 square feet of floor area.
Helipad	2 spaces for each helipad.
Hookah Lounge	1 space for every two hookahs plus one space for each employee.
Hospice Facility	1 space for each bed plus one space for each employee.
Hospital	2.2 spaces for each bed.
Hotel or Motel	1 space for each sleeping room up to 250 rooms; 0.75 for each sleeping room between 251 and 500 rooms; and 0.50 spaces for each sleeping room over 500.
Institutional Group Home	1 space for each bed plus 1 space for each employee.
Laundromat or Clothes Cleaning Laundry, Neighborhood	1 space for each washing machine, plus 1 employee space.
Lumber Yard	1 space for every 300 square feet of gross floor area.
Massage Services with Licensed Health Care Professional	1 space for each licensed health care professional, plus 1 space for each employee.
Massage Services without Health Care Professional	2 spaces for each masseuse.
Medical Facility	3.5 spaces for 1,000 square feet of gross floor area.
Medical Marijuana Academic Clinical Research Center	3.5 space for 1,000 square feet of gross floor area.
Medical Marijuana Delivery Vehicle Office	1 space for every vehicle, plus 1 space for each employee.
Medical Marijuana Dispensary	1 space for every 300 square feet of gross floor area.
Membership Club or Social Hall	1 space for every 100 square feet of gross floor area.
Nursing Home	1 space for every three beds, plus 1 space for every four employees.
Pawn Shop	1 space for every 100 square feet of gross floor area.
Personal Care Home	1 space for every two beds, plus 1 space for every employee on the maximum shift.
Personal Service Establishments	1 space for every 150 square feet of gross floor area.
Place of Worship	1 space for every three seats.
Places of Public Assembly, Large Scale	1 space for every three seats, plus a minimum of 30 spaces for every 750 square feet of floor area for any public place of assembly considered large scale or whichever is greater for a specific use.
Places of Public Assembly, Small Scale	1 space for every four seats for any public place of assembly considered small scale or whichever is greater for a specific use.
Playground/Park	10 spaces for every acre of land.
Professional Office	2 spaces for each professional, plus 1 space for all other employees.
Public Governmental Use	1 space for every 100 square feet of gross floor area.
Radio or Television Studio	1 space for each employee.
Recreational Facility (Indoor)	1 space for every 100 square feet of gross floor area.
Recreational Facility (Outdoor)	1 space for every three seats; 5 spaces for each green, tee or hole; 3 spaces for each court; 5 spaces for every 1,000 square feet of gross floor area; 9 spaces for each employee; or 10 spaces for every acre, whichever is applicable and greater.
Rehabilitation Facility	1 space for each employee, plus 1 space for each bed.
Restaurant Take-Out	1 space for each employee, plus 6 spaces.
Restaurant with Drive-In or Drive-Thru	1 space for every 80 square feet of gross floor area.
Restaurant without Drive-In or Thru	1 space for every 100 square feet of gross floor area.
Retail Sales Establishments	1 space for every 150 square feet of gross floor area.
Sawmill	1 space for each employee, plus 5 spaces.

School	1 space for each staff member, plus 1 space for every 20 classroom seats for elementary or secondary schools; and 1 space for each staff and faculty member plus one space for every 5 classroom seats for colleges, universities, post-secondary, trade, or vocational schools.
School with Dormitory	1 space for each staff and faculty member, plus 1 space for every 10 classroom seats.
Secondhand Store	1 space for every 150 square feet of gross floor area.
Self-Storage Facility	1 space for every 10 units, plus 1 space for each employee.
Shopping Center or Big Box Store	4 spaces for every 1,000 square feet of gross floor area.
Smoke Shop (Sales Only No Smoke Room)	1 space for every 300 square feet of gross floor area.
Smoke Shop (Sales with Smoke Room)	1 space for every 150 square feet of gross floor area.
Tattoo Parlor/Body-Piercing Studio	2 spaces for each employee.
Tavern, Brewery Pub and Micro- Brewery	1 space for every two seats, plus 2 spaces for every three employees on the maximum working shift.
Theatre (Indoor Movie or Live-No Adult Use)	0.3 spaces for each seat.
Theatre (Outdoor-No Adult Use)	1 space for each seat or 100 square feet of gross public assembly area.
Treatment Facility	3.5 spaces for every 1,000 square feet of gross floor area.
Wellness and Fitness Center	2.7 spaces for every 1,000 square feet of gross floor area.
Wholesale Establishment	1 space for every 300 square feet of gross floor area.
<b>Energy Uses</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
PSES	1 space for each employee post construction.
PWEF	1 space for each employee post construction.
Electricity Generating Plant	1 space for each employee on the maximum shift.
Natural Gas Processing Plant	1 space for each employee on the maximum shift.
Oil and Gas Operation or Compressor Station	1 space for each employee.

<b>Industrial Uses</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
Asphalt, Batch and Concrete Plant	1 space for each employee on the maximum shift, plus 5 spaces.
Bulk Fuel Storage	1 space for each employee.
Bulk Recycling Center	1 space for each employee, plus 1 space for every 300 square feet of gross floor area.
Clothes Cleaning Laundry, Industrial	1 space for each employee, plus 5 spaces.
Crematorium	1 space for each employee.
Culm Bank Removal	1 space for each employee.
Shredding, Industrial	1 space for each employee.
Heavy Industrial	1 space for every 1,000 square feet of gross floor area, plus 1 space for every two employees.
Industrial Hemp Production	1 space for every 1,000 square feet of gross floor area, plus 1 space for every two employees.
Junk or Salvage Yard	1 space for every 1,000 square feet of gross floor area, plus 1 space for every employee.
Light Industrial	1 space for every 1,000 square feet of gross floor area, plus 1 space for every two employees on the maximum shift.
Machine Shop	1 space for each employee, plus 5 spaces.
Mineral Extraction	1 space for each employee, plus 12 spaces.
Packaging Plant	1 space for each employee, plus 1 space for every 1,000 square feet of gross retail floor area.
Railroad Yards	1 space for every two employees.
Recycling Collection Center	1 space for each employee, plus 1 space for every 300 square feet of gross floor area.
Slaughterhouse or Food Processing	1 space for each employee, plus 1 space for every 300 square feet of gross retail floor area.
Solid Waste Facilities	1 space for every 1,000 square feet of gross floor area, plus 1 space for every employee.

Truck Service Center, Repair and Storage	5 spaces for every 1,000 square feet of gross floor area.
Trucking Terminal	1 space for every 1,000 square feet of gross floor area, plus 1 space for every employee.
Warehouse and Distribution	1 space for every 2,000 square feet of gross floor area plus 1 space for every two employees on the maximum shift.

<b>Agricultural Uses</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
Agribusiness	1 space for each employee.
Agricultural Equipment Sales and Rentals	5 spaces for every 1,000 square feet of gross floor area.
Agricultural Operations	1 space for every employee.
Agricultural Product Marketing and Sales	5 spaces for every 1,000 square feet of gross floor area.
Agricultural Related Business	1 space for every 1,000 square feet of gross floor area, plus 1 space for every two employees.
Agritourism	1 space for every eight fixed seats, or 1 space for every 100 square feet of assembly area, whichever is greater.
Greenhouse and Nursery	1 space for each employee plus 1 space for every 300 square feet of gross retail floor area.
Hemp Grower or Processor	1 space for every employee.
Medical Marijuana Grower and Processor	1 space for every employee.
Nature Preserve	1 space for every employee plus 1 space for each visitor or guest.
Tree Farm	1 space for every employee, plus 10 spaces.
Water Withdrawal	1 space for each employee.
Winery	1 space for each employee plus 1 space for every 300 square feet of gross retail floor area.
<b>Utilities</b>	<b>Minimum Number of Required Off-Street Parking Spaces</b>
Communication Tower or Antenna, Stand Alone	3 spaces.
Essential Public Utility Services, Enclosed	1 space.
Fiber Optic Switch Facility	2 spaces.
Public Transmission Tower	2 spaces.
Sewage Treatment Plant	1 space for each employee on maximum shift plus 1 space for every 1,000 square feet of gross floor area.

(4) Fractions of a Space. When the required off-street parking computation results in any fraction, the fraction shall be construed to require another additional off-street parking space.

(5) Location of Off-Street Parking Areas. Off-street parking spaces for any type of use shall be located on the same lot as the principal use for which the accessory off-street parking spaces are required. Off-street parking spaces may also be permitted on an adjoining lot held under the same ownership provided that the lot to be used for off-street parking and the lot on which the principal use is located are in the same zoning district; and the lot to be used for off-street parking shall be not less than 300 feet to any lot line on which the principal structure is located.

(6) Location and Layout of Off-Street Parking Spaces. Off-street parking areas shall be permitted in any yard area. If the parking area is located in a side or front yard, then the off-street parking spaces shall be located not less than five feet to the nearest point of the property line. Any non-residential off-street parking area when abutting a residentially used property shall be located not less than 15 feet from the residential property. All off-street parking areas shall be designed, constructed and used



so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out onto any public right-of-way.

(7) Paving of Off-Street Parking Areas. All required parking areas and parking spaces shall be paved with a concrete or bituminous paving material, or shall be surfaced so as to provide a durable and dustless surface.

(8) Handicap Parking Spaces. In addition to requirements of this section, any person or business that owns, leases, or operates a facility, which is open to the public or provides public accommodations including commercial facilities shall provide handicap parking spaces in accordance with state and federal laws and regulations.

Section 702. Off-Street Loading Spaces.

(1) Size of Off-Street Loading Spaces. Every off-street loading space shall be not less than 50 feet in depth, 12 feet in width and provide an overhead clearance of not less than 14 feet.

(2) Required Spaces. Off-street loading spaces must be provided for all commercial, industrial and other non-residential establishments and in no case shall a public right-of-way be used for the loading, unloading, or storage of any vehicles. Off-street loading spaces must be provided in accordance with the following schedule:

<b>TYPE OF USE:</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED:</b>
Commercial Uses	1 space for every 20,000 square feet of gross floor area
Industrial or Warehouse Uses	1 space for every 10,000 square feet of gross floor area
Other Non-Residential or Mixed Uses	1 space for every 15,000 square feet of gross floor area

(3) Location and Layout of Off-Street Loading Spaces. Off-street loading spaces shall not be permitted in any front yard area. All loading areas shall whenever possible be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

(4) Paving of Off-Street Loading Spaces. All off-street loading areas and spaces shall be paved with a concrete or bituminous paving material, or shall be surfaced so as to provide a durable and dustless surface.

Section 703. Nonresidential Access Drives.

(1) Size of Access Drives. There shall be adequate ingress or egress to all parking spaces and loading spaces by way of an access drive leading to the off-street

parking and loading areas. Within 10 feet of the street right-of-way line, access drive may not exceed 30 feet in width.

(2) Required Spaces. Access drives to off-street parking and loading areas shall be limited to well-defined locations, unless otherwise provided under this ordinance for a specific type of use. The number of access drives shall not exceed two for each zoning lot.

(3) Location and Layout of Off-Street Loading Spaces. Access drives shall be located and designed to prevent the blocking of vehicles entering or exiting the site; so as not to cross any street right-of-way; in such a manner that provides safe and adequate drainage; and to provide sight distances that do not obstruct one's vision.

(4) Paving of Access Drives. All access drives shall be paved with a concrete or bituminous paving material or shall be surfaced to provide a durable and dustless surface.

#### Section 704. Residential Access Drives.

(1) Access Required. Every residential dwelling constructed or any residential conversion intended to increase the number of dwelling units shall have lot frontage on a public or private street.

(2) Maximum Number of Access Drives. No more than two residential access drive connections shall be permitted per lot frontage, and no more than three residential access drive connections shall be permitted per lot.

(3) Setbacks. Access drives may not connect to a street within 30 feet of the right-of-way lines of any intersecting streets, within 10 feet of a fire hydrant, and within five feet from an adjoining property line.

(4) Visibility at Intersections.

- i. A clear-sight triangle shall be provided at all street and driveway intersections.
- ii. Nothing shall be erected, placed, or allowed to grow in a manner which obscures vision above the height of two and a half feet and below 10 feet, measured from the centerline grade of intersecting streets and driveways.
- iii. At street intersections, an isosceles triangle shall be established for 30 feet at each side of the point of intersection of the street right-of-way lines.

- iv. At driveway intersections with streets, an isosceles triangle shall be established for 30 feet at each side of the point of intersection of the street right-of-way line with the driveway edge of improved surface.

(5) Slopes.

- i. Access drives may not exceed a slope of eight percent within 25 feet of the street right-of-way lines except when already existing.
- ii. An access drive may not have a slope that exceeds 15 percent at any point except for existing access drives.

(6) Width. The width of an access drive shall not be less than 10 feet nor more than 24 feet between the street right-of-way and street cartway.

(7) Drainage. An access drive shall be constructed in a manner consistent with the design, maintenance, and drainage of the street to which it will connect.

(8) Vertical Distance. An access drive shall be clear of obstructions and vegetation to facilitate emergency vehicle access for a distance of at least 12 feet from a street line.

(9) Improvements. Access drives shall be paved with a concrete or bituminous paving material except when more than 100 feet is needed to access the parking area or dwelling unit.

Section 705. Lot Access.

(1) Every new principal use or building shall be on a lot with frontage along a public or private street.

(2) Outparcel lots are permitted if they have adequate vehicular access and are accompanied by a recorded cross access easement agreement.

(3) The creation of new principal buildings and uses on a lot without adequate access is not permitted.

(4) The creation of a flag lot is prohibited.

**ARTICLE 8**  
**SUPPLEMENTAL REGULATIONS**

Section 801. Applicability. This Article specifies certain uses, whether permitted by right, special exception or variance, that shall be subject to the following additional regulations and requirements besides those set forth elsewhere within this ordinance.

Section 802. Specific Uses.

(1) Adult Use. No adult use shall be located less than 2,000 linear feet from any of the following:

- A. A residential zoning district, or existing residential dwelling unit.
- B. A place of worship.
- C. A public or quasi-public use or structure.
- D. School, day care center or child nursery.
- E. Another adult use.
  - 1. A 50 feet buffer yard shall be provided and the property (except for access drives) shall be screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained.
  - 2. No pornographic material, display or words shall be placed in view of persons who are not inside the establishment.

(2) Agricultural Uses.

- A. Agricultural Operations.
  - i. Any manure storage facility shall comply with the yard and setbacks requirements established by Act 38 of 2005 known as ACRE and the Commonwealth of Pennsylvania Nutrient Management Act, as amended. All applications for manure storage facilities shall include evidence indicating compliance with Act 38 of 2005 known as ACRE and Commonwealth of Pennsylvania Nutrient Management Act.

- ii. All agricultural operations shall be designed and maintained so that water and fertilizer will not drain onto adjacent lots.
- iii. All agricultural operations shall comply with applicable standards of the most recent version of the Pennsylvania Manure Management Manual, as amended.

B. Agribusiness. The following supplemental regulations shall be applicable for the proposed use of an agricultural property for an agribusiness:

- i. The minimum lot size is 10 acres.
- ii. The minimum lot width is 400 feet.
- iii. Activities (including parking areas) and structures shall comply with the following minimum setback distances:
- iv. Front yard is 50 feet.
- v. Side yard is 100 feet.
- vi. Rear yard is 100 feet.
- vii. Ancillary features of a property may include:
  - a. The use of a portion of the property for the temporary placement of campers, horse trailers and recreational vehicles as related to planned events upon the property.
  - b. The sale of both prepared food products and fresh farm produce and accessory products that support the specific agribusiness such as leather tack products, saddles, boots, and western wear.
- viii. Maximum building coverage is 20 percent and the maximum impervious surface is 30 percent.
- ix. The applicant must provide sufficient off-street parking spaces and off-street loading spaces for all uses and activities proposed to be operated as part of an agribusiness. If at any time after opening the facility, the governing body determines that parking, loading or traffic backups are occurring on adjoining roads, and such are directly related to the lack of sufficient on-site facilities on

the property, the governing body may require the applicant to revise and provide additional on-site parking and loading spaces to meet the off-street parking or off-street loading needs within 90 days of notification. This shall be a condition of any permit or approval and the governing body shall have discretion to require additional parking and loading during the operation of the agribusiness.

C. Retail Sales of Agricultural Products (including nurseries). The erection of temporary structures shall be permitted provided that they are disassembled at the end of each season when products are not being offered for sale. No area, temporary structure, stand, parking area or loading space utilized for the sale of agricultural products shall be located less than 50 feet to any existing residential dwelling unit, residentially zoned boundary line, and street right-of-way; and not less than 100 feet of any street intersection. The applicant shall prove that the all access drives have adequate sight distances based upon Pennsylvania Department of Transportation regulations and guidelines regardless of whether the access drive abuts a state highway.

D. Horse Stables and Riding Academies. The minimum lot size shall be two acres, and the maximum density shall be one horse per acre. No storing manure shall be located within 250 feet of any lot line. Manure shall be regularly collected and disposed of in such a manner to prevent odors and surface liquids from leaving the property.

E. Hemp Grower and Processor.

- i. A field or planting site for hemp may not be located within 1,000 feet of a school or playground/park; 200 feet of a structure used as a residential dwelling unit; and three miles of a medical marijuana grower or processor facility.
- ii. A field or planting site for hemp must be physically separated from other crops.
- iii. Growing and processing of hemp shall comply with the requirements of the General Permit issued or approved by the Pennsylvania Department of Agricultural.
- iv. Industrial hemp production may not occur on the same property where the growing and processing of hemp occurs.

F. Medical Marijuana Grower and Processor.

- i. A grower and processor of medical marijuana shall meet the same requirements as other manufacturing, processing and production uses located in the same zoning district, including minimum lot size (area and width), minimum yard dimensions (front, each side and rear), and maximum building coverage and height so as to comply with Section 2107(1) of the Pennsylvania Medical Marijuana Act, Act 16 of 2016.
- ii. Medical marijuana may only be grown and processed in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH.
- iii. Solid or liquid waste byproduct or remnants generated from the operation shall be stored in the enclosed secured principal building until picked up for transportation to a facility authorized to accept such waste.
- iv. Storage of medical marijuana waste remnants in an accessory building or waste refuse container located outside of the principal building is prohibited.
- v. Growing and processing of medical marijuana shall be limited to wholesale products for sale to another medical marijuana facility. Retail sales of medical marijuana, including the operation of a medical marijuana dispensary on the same property as the growing and processing operation is prohibited.
- vi. A grower and processor facility may not be located within 1,000 feet of the property line of a public, private, or parochial school or day-care center (“Protected Use”) unless a waiver is granted by the DOH. This distance shall be measured in a straight line from the closest exterior wall of the building in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located. A grower and processor facility lawfully operating under the Medical Marijuana Act, Act 16 of 2016, may not be considered a violation of this provision as a result of a later location of a protected use.
- vii. All outdoor lighting shall be directed away from public right of ways and adjoining properties so that the lighting does not present a hazard to drivers or pedestrians by

impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or properties (nuisance glare). An outdoor lighting plan shall be required as part of the application for the use.

- viii. The required number of off-street parking spaces shall be one space for every 2,000 square feet of gross floor area, plus one space for every two employees on the maximum working shift.
- ix. The required number of loading spaces shall be one space for every 7,500 square feet of gross floor area. Loading areas shall be located within the principal building.
- x. A screened buffer is required where a grower and processor facility adjoin the R-1, R-2 or S-1 zoning district or a residential use of a property. The screened buffer shall consist of a visually solid, tight fence not less than six feet in height and a natural wooded buffer or planting strip along the nonresidential use or zone that is at least six feet in height and five feet in width when planted to shield the residential use or R-1, R-2 and S-1 zones from the proposed grower and processor facility. A landscape plan shall be required as part of the use application.
- xi. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from a grower and processor facility.
- xii. A grower and processor of medical marijuana must be legally registered with the Commonwealth of Pennsylvania and possess a current and valid permit from DOH.

(3) Animal Daycare.

- A. Hours of operation may only occur between the days of Monday through Saturday and between the hours of 7:00 a.m. and 7:00 p.m., local time.
- B. Recreation must be provided by the operator for the domestic pets.
- C. A maximum of fifteen domestic pets shall be permitted per property.



- D. Domestic pets must be confined within the property of the operator so that the pet cannot stray from beyond the property on which it is secured.
- E. The operator must also keep the property clean where the pets are being boarded and immediately remove animal feces and properly dispose of it.

(4) Animal Hospital. An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than 35 feet from any property line.

(5) Animal Kennel. Any buildings, runways, fenced enclosures and similar structures shall be located not less than 100 feet from all property and street lines. Where the property abuts a zoning district having residences as a principal permitted use, all buildings, runways, fenced enclosures and similar structures shall be located not less than 200 feet from such property lines.

(6) Apartment Buildings and Townhouses (Multi-Family Dwelling Units). The building shall contain no more than six single-family dwelling units. Maximum building height shall be three stories or 35 feet. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 30%. A minimum of 30% of the total lot area shall be set aside and devoted as common open space to be developed for recreational purposes limited to use by the residents and their guests. A lot area of 2,500 square feet shall be required for each dwelling unit. A minimum lot width of not less than 150 feet shall be required. The minimum distance between principal building shall be 30 feet. The exterior appearance of the building shall be constructed and maintained to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any side of the building that faces a street. Service entrances, trash and garbage and drying yards shall be enclosed, and screened from public view.

(7) Airport or Heliport. A minimum lot size of 10 acres shall be required for a heliport, and 50 acres for an airport. The entire perimeter of the runway or landing/take-off area shall be enclosed by a fence not less than eight feet in height. The surface area of the runway or landing/take-off area shall be paved. The runway or landing/take-off area shall be located not less than 300 feet from all property lines. Where the property abuts either a zoning district having residences as a principal permitted use, or a property being used for residential purposes, then the runway or landing/take-off area shall be located not less than 500 feet from such property lines. Bulk fuel storage shall not be considered an accessory use but shall be permitted in accordance with the provisions of this Ordinance that regulate such a use.

(8) Assisted Living Residence, Nursing Home or Personal Care Home. The minimum lot size shall be one acre. All buildings shall be located not less than 50 feet

from any property line or street line. A minimum of 20% of the lot shall be designed, developed, used, and maintained for outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and/or pedestrian walkways.

(9) Automobile Related Activities.

A. Automobile Repair Garage. Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. All paint work shall be performed within a building, with a ventilation system that directs fumes away from adjacent properties and buildings. Temporary outdoor parking of vehicles intended to be replaced is permitted in the side or rear yard areas only, and those vehicles shall be licensed and inspected at all times. Storage of vehicles shall be permitted for no longer than 30 days. Service bays shall face the front yard property line whenever possible. Where the operation abuts on the side or rear yard property line of a property used for residential purposes, or zoned for such purposes, a substantial attractive fence six feet in height shall be constructed and maintained in good condition along such property line or lines.

B. Automobile, Boat, Equipment, Home and Recreational Vehicles Sales. The outdoor display of new or used automobiles, boats, recreational vehicles, motorcycles, manufactured homes, or mobile homes shall not be located on any part of an existing or future street right-of-way or required parking area. The display area shall meet the required principal building setback requirements of the zoning district in which the property is so located. Where the sales operation abuts on the side or rear yard property line of a property used for residential purposes, or zoned for such purposes, a substantial attractive fence six feet in height shall be constructed and maintained in good condition along such property line or lines.

C. Automobile Service Stations. This use shall include convenience stores and car washes. When a service station abuts on the rear or side lot line of a district having residences as a principal use or a property being used for residential purposes, a solid wall or substantial attractive fence being six feet in height shall be constructed and maintained in good condition along such boundary. Fuel pumps or other service appliances may be located in any yard provided that the pumps are not less than 25 feet from the existing street right-of-way and meet side yard principal building setbacks. All repairs, service, storage or similar activities in connection with the use shall be conducted within an enclosed building. In the event of washing activities or the operation of a car wash, appropriate drainage facilities for washing automobiles shall be provided, wherein water from the car wash will not flow onto sidewalks, streets or adjoining properties. The site shall be sufficiently large to accommodate three cars per awaiting washing during peak periods so that lines along streets are avoided.

D. Automobile Storage Compound or Yard. The impound storage yard must be identified by a conspicuously placed, well-maintained sign that includes the business name, address, phone number, and hours of operation. The yard shall maintain a hard-surfaced storage area of concrete, black top, gravel, road base, or other similar material. The yard must have adequate lighting. An eight-foot opaque chain link fence must surround the yard with a locked entrance gate. Spacing between vehicles must be adequate to allow opening of vehicle doors without interfering with other vehicles or objects. An office shall be located on the property where the impound yard is located and towing and storage fees must be conspicuously posted in the office. The office shall be staffed and open for public business during normal business hours, Monday through Friday, except for designated state and federal holidays. The yard shall provide compressed air and battery boosting capabilities at no additional cost to the owner of the vehicle being stored.

E. Carwash. All structures housing self-service devices such as vacuum, air or fuel may be in any yard provided they are more than 25 feet from all property lines and the existing street right-of-way. Water from the car wash may not flow onto sidewalks or streets in such a manner as to negatively impact pedestrian and vehicular travel or violate any stormwater ordinance. The minimum lot size is five acres, which may be reduced to two acres if the water is recycled on-site. Access drives and parking aisles shall be designed so as not to cause traffic hazards. On-lot traffic circulation channels and parking areas are clearly marked. Adequate provisions shall be made for the proper and convenient disposal of refuse.

(10) Bed and Breakfast. The use shall have a residential appearance and character. Except for a permitted identification sign, the use of any other type of sign, show windows, or other displays for advertising shall be prohibited. The use shall be operated and/or managed by permanent residences of the property. There shall not be separate cooking facilities in any guestroom, and food shall only be prepared or served to overnight guests unless a restaurant is also permitted within the zoning district in which the property is located. No guests shall be permitted to stay for more than four weeks in any given year.

(11) Boarding or Rooming House. The minimum lot area shall be two acres and the minimum lot width shall be 200 feet. The maximum density for the use shall be six bedrooms per acre of land area and a boarding or rooming house shall serve no more than 20 persons. Each bedroom shall be limited to no more than two adults. Rooms shall be rented for a minimum of five days.

(12) Bulk Fuel Storage Facility. Bulk fuel storage facilities shall be located on a tract of land not less than ten acres. Storage tanks shall be located not less than 2,500 feet from any property line and shall be not less than 2,500 feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than 2,500 feet from all property lines. The tank

storage area shall be fenced with a chain link fence at least six feet in height and properly locked. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

(13) Contractors' Storage Yard. Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than 2,000 square feet shall be located on a tract of land of not less than 25,000 square feet. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway 14 feet in width provided for every 40 linear feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line of a district having residence as a principal permitted use, a solid wall or substantial fence being six feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjoining properties.

(14) Cemetery or Mausoleum. The minimum lot area shall be two acres, which may be on the same lot as a permitted place of worship. All structures, graves or places of permanent burial shall be set back not less than 50 feet from all property lines and street lines and shall not be located within any 100-year flood plain. The cemetery shall be enclosed by a fence, wall or shrubbery at least three feet in height. The interior roads shall have a minimum width of 12 feet and shall be properly maintained with either gravel or paving. The applicant or owner must provide sufficient proof that an appropriate financial system is in place or will be implemented to guarantee perpetual maintenance of the cemetery.

(15) Childcare Center or Family Childcare Home. All outdoor play areas shall be completely enclosed with a fence being six feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The applicant and/or owner shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility.

(16) Communication, Small Wireless Facility, Small Cell Installation.

A. A small wireless communication facility site with a small wireless communication facility that is either not mounted on an existing structure or which is more than 15 feet higher than the structure on which it is mounted shall, in addition to all other applicable requirements, comply with the following:

- i. Service Provider Required. No zoning permit shall be issued for any new small wireless communication facility governed by this Section until the applicant provides documentation to the zoning hearing board that a service provider has contracted for the use of the facility. An applicant may apply for approval of the small wireless

communication facility, and such approval may be granted by the zoning hearing board, but the zoning permit shall not be issued until the required service provider documentation is provided.

- ii. Location Requirement and Number. The applicant shall demonstrate to the satisfaction of the zoning hearing board, using technological evidence, that the small wireless communication facility and support structure must go where it is proposed to satisfy its function in the company's grid system. The number of small wireless communication facilities to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant.
- iii. Colocation New tower. The zoning hearing board may require the applicant to demonstrate that the applicant contacted, in writing, the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install the small wireless communication facility on those structures, and was denied. This would include smokestacks, water towers, tall buildings, small wireless communication facility support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The zoning hearing board may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the small wireless communication facility on an existing structure, thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed small wireless communication facility. A good faith effort shall demonstrate that one or more of the following reasons apply to a particular structure:
  - a. The proposed equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
  - b. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure, and the interference cannot be prevented at a

reasonable cost.

- c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to enable it to provide services consistent with the provider's system requirements.
- d. Addition of the proposed equipment would result in electromagnetic radiation from such structures exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- e. A commercially reasonable agreement could not be reached with the owners of such structures.

B. Small Wireless Communication Facility Height, Design.

- i. Minimum Height. A small wireless communication facility shall not be more than 50 feet in height. The small wireless communication facility shall comply with any applicable airport hazard ordinance.
- ii. Stackable. The zoning hearing board may require the tower to be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antenna arrays can be accommodated in addition to the arrays on the original tower to facilitate future co-location.
- iii. Visual Impact; Stealth Design. The applicant shall provide to the zoning hearing board graphic information that accurately portrays the visual impact of the proposed tower from various vantage points selected by the zoning hearing board, such parks, and playgrounds, designated historic sites or districts or designated scenic areas. This graphic information may be provided in the form of photographs or computer-generated images with the tower superimposed, as may be required by the zoning hearing board. The zoning hearing board may require the applicant to conduct a balloon test to confirm the visual impact. The zoning hearing board may require stealth design or specific colors, consistent with applicable federal regulations, to ensure that the small wireless communication facility is compatible

with the surrounding landscape.

iv. Setbacks. If a new small wireless communication facility support structure is constructed (as opposed to mounting the small wireless communication facility on an existing structure) or if the small wireless communication facility height exceeds the height of the existing structure on which it is mounted by more than 15 feet, the following minimum setbacks shall apply:

- a. Separate Parcel. If the parcel on which the small wireless communication facility and support structure are located is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the small wireless communication facility structure plus 30 feet. The setback for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of 30 feet.
- b. Lease, License or Easement. If the land on which the small wireless communication facility and support structure is located is leased or is used by license or easement, the setback for any part of the small wireless communication facility, the support structure, equipment containers, other accessory structures and guy wire anchors shall be a minimum of 30 feet from the line of lease, license, or easement. In any case, the distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the small wireless communication facility structure plus 30 feet.

C. Residential Dwellings. Support structures shall be separated from residential dwellings on adjacent or proximate properties by not less than two times the height of the structure.

D. Setback Reduction. The setbacks above may be reduced to not less than 30 feet, provided the affected property owner provides the applicant permission for the lesser setback. Such permission shall be in the form of a

recorded agreement between the affected property owner and the applicant.

E. Support Structure/Safety. The applicant shall demonstrate that the proposed small wireless communication facility and support structure are safe, and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania-registered and licensed professional that a proposed small wireless communication facility and support structure 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 any applicable building code.

F. Fencing. A fence, a minimum of eight feet in height and of a design to restrict unauthorized access, shall be installed around the small wireless communication facility support structure and other equipment.

G. Landscaping. Existing vegetation on and around the site shall be preserved to the greatest extent possible.

- i. Landscaping installation and maintenance may be required to screen as much of the support structure as possible, the fence surrounding the support structure, any other ground level features (such as a building), and, in general, buffer the small wireless communication facility and support structure site from neighboring properties and the sight lines from prominent viewing locations.
- ii. The zoning hearing board may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping if they achieve the same degree of screening as the required landscaping.

H. Access. Access to the small wireless communication facility and support structure shall be provided by means of a public street or easement to a public street in accordance with a local or state highway occupancy permit, as applicable. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet, with a dust-free, all-weather surface for its entire length. Access shall, if feasible, be provided along existing access points and drives.

I. Fire Control Plan. The applicant shall provide a fire control plan including details about any fire suppression system proposed for any small wireless communication facility or similar item. The plan shall be provided to the



applicable fire company for review and comment.

(17) Communication Tower.

A. Building Mounted.

- i. Building mounted communication antennas may not be located on any single-family, two-family, or multi-family dwelling units. Building mounted communication antennas shall not exceed the height limitations of the applicable zoning district by more than 20 feet. Omni-directional or whip communication antennas shall not exceed 20 feet in height and seven inches in diameter. Directional or panel communication antennas may not exceed five feet in height and three feet in width.
- ii. An application for a communication antenna to be mounted on a building or structure shall submit:
  - a. 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;
  - b. Detailed construction and elevation drawings indicating how the antennas will be mounted on the building or structure for review for compliance with the applicable building code; and
  - c. Evidence of agreements and easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communication equipment buildings can be accomplished.
- iii. Communication antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Communication antennas may not cause radio frequency interference with other communication facilities located within the municipality.

- iv. A communication equipment building shall be subject to the height and setback requirements of the applicable zoning district for accessory structures.
  - v. The owner or operator of communication antennas must be licensed by the Federal Communication Commission to operate such antennas.
- B. Communication Tower, Stand Alone.
- i. The applicant must be licensed by the Federal Communications Commission to operate a communication tower. The applicant must demonstrate that the proposed communication tower complies with all applicable standards established by the Federal Trade Commission governing human exposure to electromagnetic radiation, Federal Aviation Administration regulations, and Commonwealth Bureau of Aviation regulations.
  - ii. Any applicant proposing construction of a new communications tower shall first demonstrate that a good faith effort has been made to obtain permission to mount the communication's antenna on an existing building, structure, or communications tower. A good faith effort shall require that all owners of a potentially suitable structure within a two-mile radius of the communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
    - a. 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;
    - b. 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;
    - c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to perform its intended function;

- d. 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; or
- e. A commercially reasonable agreement could not be reached with the owners of such structures.

C. Access shall be provided to the communication tower and communication equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be paved to a width of at least 10 feet for its entire length.

D. A communication tower may be located on a lot occupied by a principal structure and may occupy a leased parcel within a lot meeting the minimum lot area requirements for the zoning district in which it is located.

E. Land development may not be required for the lease parcel on which a communication tower is proposed to be constructed provided that the communication equipment building is unmanned. However, a subdivision plan shall be required for a lease parcel on which a communication tower is proposed to be constructed.

F. The applicant shall demonstrate that the proposed height of the communication tower is the minimum height necessary to perform its functions, but in no event shall a communication tower exceed 150 feet. However, a communication tower's height may be increased to 200 feet provided the required setbacks from adjoining lot lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet. The foundation and base of any communication tower located adjacent to any property being used for residential purposes, or adjacent to any property where the principal permitted use is residential, shall be setback from the property line (not lease line) at least 150 feet and shall be set back from any other property line (not lease line) at least 50 feet.

G. The base of a communication tower shall be landscaped to screen the foundation and base and communications equipment building from abutting properties.

H. The communications equipment building shall comply with the required setbacks and height requirements of the applicable zoning district for an accessory building.

I. 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 Associations/Telecommunications Industry Association. The applicant shall also submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communication tower; a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000.00 per occurrence and property damage coverage in the minimum amount of \$1,000,000.00 per occurrence covering the communication tower, communication antennas, communication equipment and communication building. Proof of insurance to be submitted annually to the zoning officer.

J. All guy wires associated with the guyed communication tower shall be clearly marked to be visible and included within a fenced enclosure.

K. The site of a communication tower shall be secured by a fence with a minimum height of eight feet to limit accessibility by the public. A minimum of one off-street parking space shall be provided within the fenced area.

L. No lights or signs shall be mounted on a communication tower except as may be required by the Federal Communications Commission, Federal Aviation Administration, or all other governmental agency having jurisdiction.

M. If a communication tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communication tower within six months of the expiration of the 12-month period. The owner or operator must provide a bond to the municipality in a monetary amount to cover the costs of removal. The cost of removal shall be determined by the municipal engineer after considering the cost estimate provided by the applicant.

N. The zoning hearing board may require the applicant to demonstrate that the applicant contacted, in writing, the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install co-locate on those structures, and was denied. This would include smokestacks, water towers, tall buildings, other communications towers (fire, police, etc.) and other tall structures. The zoning hearing board may deny the application to construct a new tower if

the applicant has not made a good faith effort to mount on an existing structure, thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed small wireless communication facility. A good faith effort shall demonstrate that one or more of the following reasons apply to a structure:

- i. The proposed equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
- ii. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure, and the interference cannot be prevented at a reasonable cost.
- iii. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to enable it to provide services consistent with the provider's system requirements.
- iv. Addition of the proposed equipment would result in electromagnetic radiation from such structures exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- v. A commercially reasonable agreement could not be reached with the owners of such structures.

(18) Correctional Facility.

A. The minimum lot size shall be 20 acres, and each principal building shall be located on a lot not less than ten acres in area.

B. All buildings must be setback not less than 120 feet from a property line and 300 feet from a street line.

C. Where the prison abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than ten feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped, and maintained in good condition at all times.

D. No structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer yard. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped, and the entire site maintained in good condition.

(19) Drive-In or Drive-Thru Facilities. Any use providing a drive-through (i.e. bank, eating establishment, etc.) shall comply with the following requirements:

A. The drive through lane or aisle shall be designed with adequate space for a minimum of four waiting vehicles per lane or aisle. There shall be a maximum of one lane or aisle per drive through window.

B. Each drive through lane or aisle shall be clearly marked and designed so as to prevent traffic hazards and congestion while at the same time minimizing conflicts with pedestrian travel.

C. Canopies situated over drive-through areas shall meet all setback requirements for the zoning district in which the property is located.

(20) Dwellings Above Business. Such a dwelling must be attached to the commercial establishment and designed for living quarters. The dwelling must have its own heating, kitchen, and bathrooms facilities. The dwelling must also have a private access separate from the commercial establishment. Required residence parking and commercial parking must be provided for each use in accordance with the parking requirements of this ordinance.

(21) Fiber Optic Switch Facility.

A. The facility shall be located on a lot that has no other principal or accessory buildings on it.

B. All equipment associated with the facility must be stored entirely within an enclosed building and any utilities shall be located underground.

C. Any building associated with the facility shall meet the minimum setbacks requirements for a principal building in the zoning district in which it is located.

D. The access drive to the facility shall be paved and have a width of 12 feet.

E. To minimize visual impacts, the facility shall be fenced and buffered, except for the access drive, under Section 419 even if it does not adjoin a residential use or zone.

F. Any buildings shall meet the maximum height requirements for an unattached accessory nonresidential building under Section 401.

(22) Forestry/Timber Harvesting Activities.

A. Applicability. This Section applies to all timber harvesting and land clearing within the township where the value of the trees, logs and/or other forest products removed exceeds \$1,000.00. It does not cover the cutting of trees for the personal use of the landowner, or for pre-commercial timber stand improvement.

B. Submission and Approval of Logging Plan.

- i. Plan Approval Requirement. It shall be unlawful for any operator or landowner to conduct timber harvesting on more than five acres in the township except as provided in an approved logging plan which is available at the harvest site at all time during the operation.
- ii. Plan submission, approval, and appeal. At least 30 business days before the operation is scheduled to begin, a landowner on whose land timber harvesting is to occur shall prepare and submit to the zoning officer a written plan or amendment in the form specified in this section. Within 30 business days of the receipt of the plan or amendment, the zoning officer shall approve (with or without conditions) or deny the plan. The landowner may appeal the decision of the zoning officer within 30 days of issuance to the zoning hearing board.
- iii. Notification. The operator shall notify the zoning officer in writing at least two business days before operations commence and ten business days before operations are completed under an approved timber harvesting plan. The notification shall identify the operation, and, as applicable, shall specify the commencement or completion date.

C. Contents of Logging Plan.

- i. Minimum Requirements: As a minimum, the logging plan shall include the following:
  - a. Design, construction, maintenance and retirement of the access system, including, haul roads, skid roads, skid trails, and log landings;

- b. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars;
  - c. Design, construction and maintenance of stream and wetland crossings;
  - d. A stand prescription for each stand located in the proposed harvest area; and
  - e. The general location of the proposed operation in relationship to municipal and state highways, including any access to those highways.
- ii. Map: Each logging plan shall include a site map containing the following information:
- a. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property;
  - b. Significant topographic features related to potential environmental problems;
  - c. Location of all earth disturbance activities such as roads, landings, and water control measures and structures;
  - d. Location of all crossings of waters of the Commonwealth of Pennsylvania; and
  - e. The general location of the proposed operation to municipal and state highways, including any access to those highways.
- iii. Compliance with all State and Local Laws and Regulations: The plan shall address and comply with the requirements of all applicable State land local laws and regulations including, but not limited to erosion and sedimentation control; stream crossing and wetland protection; and storm water management. Any permits required by state and local agencies shall be attached to and become a part of the logging plan.

D. Forest Practices. The following requirements shall apply to all timber



harvesting activities within the township:

- i. Felling or skidding on or across any public thoroughfares is prohibited with the express written consent of the township, county, or Pennsylvania Department of Transportation; whichever is responsible for the maintenance of the thoroughfare.
- ii. No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining property.
- iii. All tops and slash between 25 feet and 50 feet from a public roadway or private roadway providing access to any adjoining property or within 25 feet of any adjoining property line shall be lopped to a maximum height of four feet above the ground level.
- iv. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner.
- v. Litter resulting from a timber harvesting operation shall be removed from the site before the operator vacates it.
- vi. A buffer strip of at least 50 feet must be maintained along any road, stream, or recognized recreational trail. Selective cutting will be allowed in these zones except for salvage cuts.
- vii. Timber operations and related activities shall be conducted only between the hours of 7:00 A.M. and 7:00 P.M. unless authorized by the zoning hearing board.
- viii. Soil carried or washed onto public streets during the operation shall be removed daily.

E. Road Maintenance, Repair and Bonding. The landowner and the operator shall be responsible for repairing any damage to township, state, or county roads caused by traffic associated with the timber harvesting operation to the extent of the damage that is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, the township may require the landowner or operator to furnish a bond to guarantee the repair of such damages.

(23) Funeral Home. A funeral home shall be setback a minimum of 40 feet from any residential lot line. The lot must have direct access onto a collector or arterial

street. The minimum lot size shall be one and a half times the minimum for the zoning district in which the property is located.

(24) Group Home. Group Homes are permitted within a permitted residential dwelling unit provided that:

A. The maximum occupancy shall not exceed six unrelated persons, excluding paid professional staff members, who shall live on the premises and function as a common household unit.

B. The Group Home shall have adequately trained and licensed professional staff supervision for the number and type of residents.

C. Evidence of applicable Federal, State and County licensing or certifications shall be presented to the zoning officer with the permit application.

D. Written documentation must be provided at the time the permit application is made verifying that the Group Home complies with all applicable governmental standards and regulations.

E. The exterior appearance of the Group Home shall be residential in nature.

(25) Home Occupations. A home occupation shall be subject to the following provisions:

A. The occupation shall be carried on entirely within the principal structure or an attached or unattached accessory structure provided that the accessory structure is located on the same lot as the principal structure.

B. No display or advertisement of products or services may be visible from outside the building. Any storage of materials associated with the home occupation shall be within the building.

C. A sign no larger than two square feet in surface area is permitted. The sign may only be lit with indirect lighting.

D. No person other than a resident of the dwelling unit may conduct the home occupation. No more than one non-occupant may be employed to perform secretarial, clerical or other assistance.

E. Not more than 30%, or 600 square feet, whichever is less, of the total floor area of the building wherein the home occupation is being conducted may be devoted to the home occupation.

F. Where the building or dwelling unit is service by on-lot sewage disposal system, the applicant must show that the existing sewage disposal system is adequate to service the home occupation.

G. The home occupation may not disturb the peace, quiet and dignity of the neighborhood by electrical interferences, dust, noise, smoke, or traffic generated by the use.

H. There shall be no retail sales of goods except those goods that are prepared or produced on the premises.

I. There shall be no change in the residential character of the building wherein the home occupation is being conducted.

(26) Health Care Campus.

A. The maximum percent of lot coverage shall be 50 percent for all principal and accessory buildings excluding parking structures.

B. The maximum height for buildings shall be 40 feet.

C. The minimum lot size shall be five acres.

D. All buildings and parking structures shall be a minimum of 75 feet from all lot lines.

E. The minimum setbacks shall be applied only to the perimeter of the campus, and the minimum setback between individual buildings on a Health Care Campus shall be 40 feet. In no case shall a public right-of-way be used for parking, loading, unloading, or storage of commercial vehicles.

F. At least two access drives with a minimum width of 24 feet each shall be provided, each from a public street.

G. Drug and alcohol rehabilitation and treatment shall only be permitted with special exception approval from the zoning hearing board provided that the center or facility providing such services is an accessory use to the health care campus consisting of less than 10 percent of the total uses on the campus.

(27) Hotel and Motel.

A. The use shall have a minimum lot area of two acres.

B. The building shall contain at least 10 guest sleeping rooms not less than 250 square feet per sleeping room.

C. No less than 60 percent of the gross floor area of the building shall be devoted to sleeping rooms.

D. The remaining floor area may be used for such uses as a restaurant, retail store, game room, ballroom, and banquet room provided that these uses are primarily designed to serve the guests of the motel or hotel.

E. All buildings and structures shall be located not less than 60 feet from the front yard line, 35 feet from all side yard lines, and 50 feet from the rear yard line.

F. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped, and the entire site maintained in good condition.

(28) Junk Yards, Automobile Dismantling Plants and Automobile Salvage Yards. Junkyards, Automobile Dismantling Plants and Automobile Salvage Yards shall comply with the following:

A. Such premises shall be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.

B. Burning or incineration of any kind shall be prohibited.

C. No garbage, organic waste, rubbish, toxic materials and hazardous materials and hazardous materials shall be stored on such premises.

D. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed from the vehicle.

E. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within a fireproof building.

F. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises, which is a place for the breeding of rodents, insects and vermin.

G. Stockpiling of motor vehicles is prohibited.

H. Outdoor storage of junk may not be piled higher than eight feet in height and must be setback no less than 100 feet from any adjoining property line, street right-of-way, water way, 100-year floodplain, and drainage swale.

I. The site shall contain a minimum of two access drives, each of which shall remain unobstructed for emergency vehicles and be not less than 20 feet in width.

J. The minimum lot size shall be 10 acres, and the maximum lot size shall be 20 acres.

K. Motor vehicles, parts and other junk shall be arranged in such a manner as to allow access drives no less than 12 feet in width for emergency vehicles. The access drives shall be kept open and unobstructed.

L. Except for the required access drives, the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained.

(29) Medical, Rehabilitation and Treatment Facilities.

A. A medical facility and treatment facility may not include overnight stays or provide any room and board. A rehabilitation facility may include overnight stays with room and board, personal care, and intensive supervision and case work for up to 30 people.

B. A rehabilitation facility may not be located within 1,000 feet of a medical or treatment facility.

C. A rehabilitation facility shall provide adequate supervision by qualified individuals with training and experience in fields for which the facility is intended. The facility shall also be supervised and secured in such a manner as to adequately protect the safety of the public. Supervision and security shall be on a 24 hour per day seven days a week basis. All services provided at a rehabilitation facility shall be conducted inside.

(30) Medical Marijuana Academic Clinical Research Center.

A. Off-Street parking regulations shall utilize those listed for an office.

B. An academic clinical research center may only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The portions of the academic clinical research center where the medical marijuana is grown may not be in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

C. All external lighting must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties.

D. A screened buffer is required where a medical marijuana academic clinical research center adjoins the R-1, R-2, S-1 and A-1 zones or a residential use of a property. The screened buffer shall consist of a visually solid, tight fence not less than six feet in height and a natural wooded buffer or planting strip along the nonresidential use or zone that is at least six feet in height and five feet in width when planted to shield the residential use or zone from the proposed grower and processor facility. A landscape plan shall be required as part of the application for conditional use.

(31) Medical Marijuana Delivery Vehicle Office.

A. Off-street parking regulations shall utilize those listed for an office.

B. The parking area where the delivery vehicles are to be stored shall be screened with a visually solid, tight fence. A fence plan shall be required as part of the application for conditional use.

C. Entrances and driveways must be designed to accommodate the anticipated vehicles used to enter and exit the premises.

(32) Medical Marijuana Dispensary.

A. A medical marijuana dispensary shall meet the same municipal zoning and land use requirements as other commercial uses located in the same district to comply with Section 2107(2) of the Pennsylvania Medical Marijuana Act, Act 16 of 2016.

B. The use shall be conducted in an indoor, enclosed, permanent, and secure building. The building for the dispensary shall have a single secure public entrance that is not shared with any other use or user and shall not be located inside the same physical space or area of another retail commercial property. The use shall not have a drive-through or outdoor seating. All storage areas shall be separately locked. Medical marijuana may not be administered or consumed on site. The user shall implement appropriate security and surveillance measures as required by the Pennsylvania Department of Health (DOH).

C. A medical marijuana dispensary may not operate on the same property as a grower and processor of medical marijuana.

D. A medical marijuana dispensary may only dispense medical marijuana to patients and caregivers.

E. The use may not be located within 1,000 feet of the property line of a public, private, or parochial school or public, private, or parochial school or day-care center (“Protected Use”) unless a waiver is granted by the DOH. This distance shall be measured in a straight line from the closest exterior wall of the building in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located. A medical marijuana dispensary lawfully operating under the Medical Marijuana Act, Act 16 of 2016, shall not be considered in violation of this provision as a result of a later location of a protected use.

F. Permitted hours of operation shall be between 8:00 a.m. to 9:00 p.m. (local time) daily.

G. All external lighting serving medical marijuana dispensary must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

H. The required number of off-street parking spaces shall be one space for every 300 square feet of gross floor area.

I. The required number of loading spaces shall be one space for every 10,000 square feet of gross floor area or fraction thereof.

J. The user shall obtain a permit and approval from the DOH and provide a copy to the municipality.

(33) Manufactured Home Community.

A. The minimum lot size shall be 10 acres, which must be under single ownership.

B. The lot shall have a minimum width at the minimum building setback line of 200 feet.

C. The maximum density shall be three homes or dwelling units per acre. Except for required access drives, the entire lot shall be completely enclosed by a buffer yard 75 feet in depth measured at right angles to the tract boundary lines and three feet in height at the time of planting. The buffer yard shall be planted and maintained with attractive evergreens and deciduous trees.

D. Each home or dwelling unit and any attached or unattached accessory structures shall be setback not less than 35 feet from any other home or dwelling unit located within the park.

E. A minimum of 30 percent of the total lot area shall be set aside and devoted as common open space to be developed for recreational purposes limited to use by the residents and their guests.

F. Access drives or driveways to individual homes or dwelling units shall be from interior private streets, which shall include the installation of curbing and sidewalks.

G. All homes or dwelling units shall be connected to a central water and central sewer system.

(34) Mineral Extraction.

A. The use, activity or any aspect of the operation shall be located not less than 1,000 feet from any street right-of-way and lot line; 1,500 feet from any 100-year floodplain, edge of a surface water body, creek, stream or wetland; and 4,000 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.

B. Except for approved access drives (which shall be secured by locked gates, which may only be open during business hours), the premises shall be completely screened to protect public safety with an industrial type gauge fence eight feet in height. Signs shall be conspicuously attached to the fence every 75 feet warning the public of the nature of the operation. A yard area not less than 50 feet in width shall also be maintained with natural vegetative ground cover along all exterior lot lines that are within 300 feet of an area of excavation. This yard shall include an earth berm with a minimum height of six feet and an average of one shade tree for each for each 50 feet of distance along the lot lines. The shade trees shall be planted outside of the required berm and fence. If substantial trees, vegetation or forest exist within the required yard area, then new plantings in those area is not necessary provided that the existing trees, vegetation or forest are well-kept, preserved, maintained and adequately serve the purpose for which the yard was to be created.

C. The lot and operation thereon shall be maintained so as not to constitute a private or public nuisance, or adversely impact public health, safety, or welfare. The days and hours of operation, including excavation, blasting, and relating trucking, may be limited by the zoning hearing board taking into consideration the characteristics of the neighborhood.

D. The site shall contain a minimum of two access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Black Creek Township Subdivision and Land Development Ordinance and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. Access drives shall be located to prevent public safety hazards, dust and noise.



E. All applications shall include a plan that evidences the measures to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.

F. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.

G. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection (DEP), as part of the state permitting process.

H. A batch plant or processing operations shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the mineral extraction is taking place provided that industrial uses are permitted uses by right within the zoning district in which the property is located.

(35) No-Impact Home Based Business. The business or activity must satisfy the following requirements:

A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

B. The business shall employ no employees other than family members residing within the dwelling unit.

C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

D. There shall be no outside appearance of a business use, including, but not limited to parking, signs and lights.

E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

F. The business activity may not generate any solid water or sewage discharge in volume or type, which is not normally associated with residential use in the neighborhood.

G. The business activity shall be conducted only within the dwelling unit (no accessory building or structure) and may not occupy more than 25% of the habitable floor area.

H. The business may not involve any illegal activity.

(36) Oil and Gas.

A. Compressor Station.

- i. Application Requirements. All conditional use applications for an oil and gas compressor station shall meet the requirements of this subsection. No zoning permit shall be issued for a compressor station unless conditional use approval and land development have first been obtained.
- ii. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved:
  - a. The minimum lot size shall be 10 acres.
  - b. A compressor station shall not be located closer than 2,500 feet from another compressor station.
  - c. No compressor station shall be located closer than 1,500 feet from any dwelling or school.
  - d. Compressors shall be located completely within an enclosed building. During periods of normal operations doors, windows and similar operations shall remain closed. Only electric powered compressors may be utilized.
  - e. A compressor station's noise level shall be equal to or less than 60 dBA at the property line for the oil and gas compressor station's site and all adjoining properties.
  - f. The application must provide the ESCGP-2 Plan and a post construction stormwater management plan prepared by a licensed professional engineer licensed in the Commonwealth of Pennsylvania.
  - g. Land development approval is required under the SALDO.

- h. The operator shall provide all material safety data sheets (MSDSs) for all materials produced, stored, or distributed on site to the municipality and its emergency management coordinator within 30 days prior to commencement of the use.
- i. The operator shall provide an emergency management plan to the municipality at the time of approval of the use. The plan shall be completed in coordination with the fire department.
- j. The operator shall provide and keep current a prioritized call list with names, emails, addresses and phone numbers for 24-hour emergency contact at the time of its application.
- k. The operator shall take measures to make certain that no mud, dirt, and debris is deposited onto public roads.
- l. The site must be secured by a minimum eight-foot high chain link fence with a locking gate that shall be kept locked when employees are not on site.
- m. Lighting shall be directed downwards and shielded to avoid glare on public roads and adjacent properties.
- n. Compressor stations shall have adequate area improved with a dust-free all-weather surface which shall be provided on the site for parking.
- o. Operators shall take all measures necessary to make certain that dust does not emanate from the site.

B. Oil and Gas Operation.

- i. Application and Permit Requirements. All conditional use applications for oil and gas operations shall meet the requirements of this subsection. No zoning permit shall be issued for an oil or gas operation unless conditional use and land development approvals have first been obtained.

- ii. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved:
- a. In addition to the requirements for a site plan for a zoning permit under this ordinance, the applicant shall indicate on the site plan all information necessary to show compliance with the supplemental regulations of this subsection.
  - b. Except for a gas or oil pipeline, a minimum lot size of 10 acres is required; a minimum lot depth 500 feet; and a minimum width of 500 feet shall be required for all oil or gas operations.
  - c. Except for a gas or oil pipeline which shall be located a minimum of 50 feet to an adjoining property measured from the outermost edge of any easement, a minimum setback of not less than 500 feet shall be maintained to any adjoining property line, residential dwelling unit, occupied building, and public road right-of-way. All land within the required setback shall remain undisturbed and may not be used for parking, storage or any other purpose associated with the oil or gas development except for permitted access drives.
  - d. An oil or gas operation shall be setback a minimum distance of not less than 750 feet from any stream, spring, body of water, or wetland.
  - e. Except for a gas or oil pipeline, a buffer yard along all property lines of not less than 100 feet in depth planted with deciduous trees shall be maintained in such a manner as to obstruct the view of the oil or gas operation from adjoining properties and public rights-of-way of not less than 75 feet in depth. The governing body may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas as opposed to requiring the applicant to plant deciduous trees within the buffer yard. It shall be the responsibility of the applicant and property owner to maintain all buffer yards in good condition, replacing any dying or dead plants or deteriorating landscape material.

- f. The height of a drilling rig and other temporary facilities on site shall be exempt from the height limits of this ordinance. Permanent structures, whether principal or accessory, shall comply with the height and other dimensional and bulk limitations applicable to the underlying zoning district.
- g. Multiple wells may be approved on one oil or gas well pad. A separate application and zoning approval shall be required for each well.
- h. A land development plan is required under the SALDO.
- i. A stormwater management plan is required under the municipal stormwater management ordinance.
- j. All vehicle parking and staging areas shall be not less than 150 feet from any property line. In addition, no vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.
- k. The applicant shall comply with all applicable state and federal regulations and provide copies of all state or federal permits and approvals to the zoning officer before the commencement of any work. Notification to the zoning officer shall be given immediately following any suspension or revocation of state or federal approvals or permits. Any approval by the governing body shall be contingent upon compliance with all state and federal regulations, permits, and approvals during the oil or gas operation.
- l. Access to any oil or gas operation shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of streets. The following shall apply:
  - 1. Any newly established private roads or easements constructed on a property shall be located at least 100 feet from any property line.

2. Any access road beginning with its intersection with a public right-of way shall be paved in accordance with governing design standards under the SALDO prior to the use of the access road.
  3. All roads and access drives shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulfur water or water in mixture with any type of hydrocarbon be used for dust abatement.
  4. The access driveway off any public road shall be gated at the entrance to prevent unauthorized access; and an assigned 911 address shall be clearly visible on the access gate for emergency 911 purposes.
- m. The applicant shall be liable for the full and complete repair and restoration of all damage of whatever nature to all municipal streets directly caused by trucks associated with the oil or gas operation. Proposed routes of all trucks and other heavy equipment and the estimated weights of those trucks and heavy equipment shall be disclosed. The municipality shall have the right to designate alternate routes in the event the proposed route is determined to be inadequate, unsafe, or overly disruptive to normal vehicular traffic. All municipal roads used in the oil or gas operation for truck and equipment hauling will be maintained and restored, if damaged. The municipality and applicant shall enter into an excess roadway maintenance agreement, the terms, and conditions of which are acceptable to the municipality to guarantee the maintenance, repair, and the restoration of any municipal roads. The excess roadway maintenance agreement shall at a minimum require the posting of

a bond or other financial security in favor of the municipality to guarantee maintenance, repair and restoration of all municipal roads used in the oil or gas operation.

- n. Oil or gas operations shall not clear brush or trees by way of burning, and it shall chip, grind, or remove all tree stumps from properties it clears for development purposes.
- o. The applicant shall take the following steps to minimize noise resulting from an oil or gas operation:
  - 1. At the time of the zoning application and prior to commencement of the operation, the applicant shall establish the continuous 72 hour ambient noise for all level of frequencies at all boundaries of the property on which an oil or gas operation is located with prior approval of the testing times and dates by the governing body.
  - 2. The applicant shall also show at the time of the application that during the operation and between, the decibel level shall not exceed 55 decibel levels at any point outside the boundaries of the property.
  - 3. All noise level measurements shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4-not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting.

- p. All electrical installations and equipment associated with building shall conform to all municipal ordinances and the Pennsylvania Uniform Construction Code.
- q. Except for gas or oil pipelines, during construction of an oil or gas operation there shall be temporary security fencing of at least six feet in height around the perimeter of the site. Upon completion of construction, security fencing consisting of permanent eight feet in height chain link fence equipped with lockable gates at every access point shall be promptly installed to secure the site. Warning signs shall be placed on the fencing providing notice of the potential dangers and contact information in case of an emergency.
- r. The applicant shall provide at the time of the application an emergency response plan. The plan shall be reviewed and approved by all agencies identified in the plan as being possibly affected by the gas or oil well operation, including, the governing body, the police department, the fire department, the zoning and code office, the school district, and the emergency management coordinator for the municipality and the county.
- s. A lighting plan shall be submitted at the time of the application showing that all exterior lights are diverted so that they do not shine directly on a public street or adjoining properties and in compliance with Article 4 of this ordinance.
- t. Except for active drilling operations, construction of an oil or gas operation may only be performed Monday through Saturday (with the exception of federal and state holidays) between the hours of 7 a.m. and 7 p.m. local time, or as otherwise authorized by the governing body.
- u. The applicant shall submit at the time of the application a copy of a water quality tests on all water wells, developed springs, and surface waters within 3,000 feet of a proposed oil or gas well prior to the commencement of any drilling. The required



water testing shall, at minimum, be for the following substances: Methane, Ethane, Barium, Chloride, Total Dissolved Solids, pH, Lead, Arsenic, Iron, Manganese, Strontium, Sodium, Hardness (calcium & magnesium), Sulfate, Nitrate, Oil & Grease, Detergents/Surfactants, Total Coliform Bacteria, Turbidity, Alkalinity, 21 VOCs/MTBE, Radium, Radon, Uranium, Gross Alpha, and Beta.

- v. The applicant shall purchase and maintain insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least \$5,000,000.00 per loss, with an annual aggregate of at least \$10,000,000.00. In the alternative, the applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the governing body. Coverage shall include coverage for pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants, or pollutants in excess of applicable permits. The applicant shall maintain coverage for a period approved by the municipality.

(37) Place of Worship.

A. A minimum lot area of one acre shall be required for the use.

B. Religious instruction and educational rooms may be permitted within the principal building as accessory uses.

C. A minimum lot area of two acres shall be required when the use consists of one or more of the following accessory uses: primary or secondary school; day care center; and a single-family dwelling unit.

D. Where the lot adjoins an existing residential dwelling unit, or is located within a residential zoning district, the parking area shall be screened along the side and rear lot lines with shrubbery or evergreen trees not less than four feet in height at the time of planting. The buffer area shall be kept in good condition and continuously maintained.

(38) Public Utility (Essential Services).

A. Public utility facilities shall conform to the following additional requirement. In a zoning district where residential dwelling units are a principal permitted use, the facility shall not include the storage of vehicles or equipment used in the maintenance and service of any utility, and no equipment may be located on the lot that would cause noise, vibration, smoke, odor or have any adverse impacts upon the health, welfare and safety of the community. In all other zoning districts, access and parking shall be permitted for maintenance and servicing of such facilities only.

B. When the use includes the storage of equipment not to be located within a building, the equipment shall be enclosed by a chain link fence and locked gate not less than six feet in height, which fence and gate must consist of screening material that has openings or gaps no greater than four inches in any dimension.

C. When the facility is located within a residential area, it shall be designed in such a manner as to conform with the characteristics of the neighborhood.

(39) Recreation, Outdoor. Except for campgrounds, racetracks, target or shooting ranges, paintball facilities and ATV parks, outdoor recreational facilities, whether public, private or commercial, shall conform to the following additional requirements:

A. The outdoor recreation activity shall be conducted no closer to any property line than the minimum required front yard for the zoning district in which the property is located and shall be screened by a buffer area with a minimum of 10 feet in depth and six feet in height at the time of planting. The buffer area shall consist of planted trees or shrubs and shall surround the activity except for permitted access drives. Parking areas shall not be located within any buffer area, as the buffer areas must be properly landscaped and maintained in good condition. Natural forest or woods may be provided in lieu of a buffer area provided that the minimum depth of the forest or wood area is 50 feet, and it is consistently thick enough to serve the purpose of a buffer area.

B. The minimum lot size for any outdoor recreational use shall be not less than three acres.

C. A restaurant/tavern, entertainment facility, or retail store shall be permitted accessory uses to an outdoor recreational use provided that those uses are allowed in the applicable zoning district, and only when all the requirements for those uses have also been met.

D. The following specific outdoor recreational uses shall be subject to the following requirements:

- i. Campground: For each one acre there shall be a maximum of four recreational vehicles or tent sites, or cabin sleeping capacity for 12 people. Cluster development is permitted for this particular use provided that each campsite has a minimum of 1,500 square feet of land area. All buildings, structures, sites, parking areas and access drives shall be located not less than 150 feet from any lot lines. A swimming pool and retail sales store shall be permitted accessory uses provided they are primarily intended for use by the people camping on the property. No person other than the owner and/or manager may be permitted to reside on the property for more than four months in any calendar year, and recreational vehicles shall be permitted to be stored on the property for more than six months in any calendar year. A campground shall include not less than one stoned or paved entrance road from a public street, with a minimum width of 24 feet. The minimum lot size shall be five acres.
- ii. Target or Shooting Range: An outdoor target or shooting range shall be no less than 250 feet from any existing occupied building on another property and 50 feet from a property line unless located in a National Rifle Association (NRA) approved range house. The range shall be screened by a buffer. The buffer shall consist of planted trees or shrubs and shall surround the activity except for permitted access drives. Parking areas shall not be located within any buffer, as the buffer must be properly landscaped and maintained in good condition. Natural forest or woods may be provided in lieu of a buffer area provided that the minimum depth of the forest or wood area is consistently thick enough to serve the purpose of a buffer area. The minimum lot size shall be not less than five acres. The days and hours of operation shall be limited to Monday

through Saturday from 7:00 A.M. to 9:00 P.M. The facility shall not conduct any approved operations at any other times and days. The facility shall also not allow the shooting of any automatic rifles.

- iii. Paintball Area/Facility: A paintball area/facility shall be no less than 250 feet from any existing occupied building on another property. All enclosed accessory buildings for uses not associated with paintball such as retail stores, concession stands and restrooms and parking areas shall be set back not less than 50 feet from any lot line. The paintball area/facility shall be screened by a buffer. The buffer shall consist of planted trees or shrubs and surround the activity except for permitted access drives. Parking areas shall not be located within any buffer. The buffer must be properly landscaped and maintained in good condition. Natural forest or woods may be provided in lieu of a buffer area provided it is consistently thick enough to serve the purpose of a buffer area. The minimum lot size shall be not less than three acres.
4. Racetrack: All principal structures and areas of the racetrack that are used for racing, testing, repair, fueling or maintenance shall be a minimum of 1,000 feet from any lot line. All enclosed accessory buildings for uses not associated with racing such as retail stores, concession stands and restrooms and parking/loading areas shall be set back not less than 500 feet from any lot line. The minimum lot size for a racetrack shall be not less than 100 acres. Hours of operation shall be limited to daytime hours only, and any lighting shall be limited to the hours of operation. The days of operation shall be limited to Monday through Saturday. The facility shall not conduct any approved operations at any other times and days.
5. ATV Park: All principal structures and areas of an ATV Park shall be a minimum of 500 feet from any lot line. The minimum lot size for an ATV Park shall be not less than 100 acres. Hours of operation shall be limited to daytime hours only, and any lighting shall be limited to the hours of operation only. The days of operation shall be limited to Monday through Saturday. The facility shall not conduct any approved operations at any other times and days.

(40) Sawmill.

A. The processing of cut trees from a property other than the property where the trees are being processed shall be conducted within a completely enclosed building that shall not exceed five thousand 5,000 square feet in total floor area.

B. The building must be located not less than 500 feet from an existing occupied building on another property. Any timber storage shall be completely screened and enclosed by a chain link fence and properly locked gate not less than six feet in height, which fence, and gate must consist of screening material that has openings or gaps no greater than four inches in any dimension.

(41) School. A school, whether public or private, primary or secondary, shall have a minimum lot size of three acres, and any outdoor recreational or play area shall be located not less than 150 feet from any residential lot line, or existing residential dwelling unit.

(42) Self-Storage Facility. These facilities may consist of one or more buildings provided that the following requirements are met:

A. All storage shall be contained within a completely enclosed building or buildings.

B. There shall be a minimum separation between buildings of 25 feet for traffic circulation, parking and fire lane purposes.

C. The maximum length of any building shall not exceed 300 feet.

D. No activities including off-street parking shall be allowed within 20 feet of a property line abutting a district having residences as a principal permitted use.

(43) Shopping Center, Strip Mall or Big Box Store.

A. The minimum lot size shall be 50 acres, and the minimum lot width shall be 1,000 feet.

B. All buildings shall be setback no less than 250 feet from any property line and 300 feet from any street right of way line.

C. Access drives shall connect to a public street. Except for the front yard property line, the side and rear yards shall contain a buffer yard not less than 300 feet in width and six feet in height at the time of planting when the property adjoins either a residential zoning district, or an existing residential dwelling unit.

The buffer area shall be landscaped and maintained and may not be used for parking, loading or storage purposes.

D. Each use located within the center shall comply with the parking requirements of this ordinance for that particular use.

(44) Short Term Rental.

- A. Use or occupancy of recreational vehicles, trailers, campers, and tents is prohibited.
- B. Outdoor overnight sleeping of tenants and their guests is prohibited.
- C. Fireworks are prohibited.
- D. When the landowner is residing more than 30 miles from the rental, the landowner shall designate a local person, property manager or agent within 30 miles of the rental, as a local emergency contact person who has access and authority to assume management duties of the rental and take remedial measures. 24-hour contact information of the landowner and the manager or agent shall be provided to the zoning officer as part of the permit application.
- E. The maximum number of guests not staying overnight shall be limited to 50 percent of the maximum number of overnight occupants. The maximum occupancy limit shall be established at the time of application.
- F. Proof of liability insurance shall be provided to the zoning officer as part of the permit application.

(45) Solar Energy Systems, Principal (PSES).

- A. Compliance with Industry Standards. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), , Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety

requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

- B. Installers. PSES installers must meet or exceed one of the following requirements:
  - i. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.
  - ii. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program and successfully installed a minimum of three solar thermal systems.
- C. Maintain Good Working Order. Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for enforcement action by the zoning officer.
- D. Underground Requirements. Solar Project Connections may be located above ground; however, DC voltage Solar Array Connections and AC Solar Facility Connections shall be located underground.
- E. Utility Notification. The owner of a PSES shall provide the township with written confirmation that the public utility company to which the PSES will be connected has been informed of the intent to install a grid connected system and approved of such connection.
- F. Signage. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided it complies with the nameplate and identification sign requirements of this ordinance.
- G. Glare.
  - i. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby properties, structures, buildings, and roadways.

ii. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

iii. A glare study shall be submitted by the applicant to show compliance with this subsection at the time of the conditional use application.

- H. Noise Study. A noise study shall be performed by the applicant and produced at the time of the conditional use application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. The noise study shall address noise produced during construction and during the operation of the PSES. Noise from a PSES may not exceed 50dBA as measured at the lot line of the property where the PSES is located. This requirement shall be a maximum noise level using a Lmax standard, and not based upon an average.
- I. Buffer, Screening and Landscape Requirements. PSES shall be screened from any adjacent property. The screen shall consist of plant materials which provide an effective visual screen. Street screening shall consist of shrubs, six feet to eight feet high when mature, that shall be planted every 15 feet of property abutting a public right-of-way in a manner to provide an effective visual screen. The exact type and placement type of vegetation shall be approved by the Township. Shrubs shall be planted adjacent to or outside of the road right-of-way. Solar perimeter fence shall be placed between shrubs and solar panels. Perimeter fence shall be placed between shrubs and solar panels. Widespread use of herbicides to control ground cover growth is prohibited. Unless agreed to by the easement or right-of-way holder, ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- J. Contact Information. The PSES owner or operator shall provide current contact information to the township which includes a phone number and identifies a responsible person for the township or public to contact regarding emergencies, inquiries, and complaints for the duration of the project. The contact information shall be conspicuously posted on the lot where the PSES is located so that a person will not believe they were trespassing while viewing it.



- K. Emergency Preparedness Plan. The owner or operator shall furnish a written emergency preparedness plan outlining the procedures on how emergencies will be handled. The plan shall include the manner that the owner or operator will coordinate with local emergency service providers in the event of an emergency. The plan shall be reviewed and approved by the local emergency service providers prior to the submission of the application with the township.
  
- L. Solar Easements. Where a solar easement is proposed by the owner or landowner for a PSES, a written agreement in recordable form constituting a covenant running with the land shall be provided to the township as part of the subdivision or land development. The township shall not be a party to any agreement, nor an intended third- party beneficiary and shall not be responsible for enforcement or maintenance of any solar easement.
  
- M. SALDO. All PSES shall constitute a subdivision and/or land development.
  
- N. Decommissioning.
  - i. The PSES owner is required to notify the township immediately upon cessation or abandonment of the use. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by the PSES for a continuous period of 12 months.
  
  - ii. The PSES owner shall then have six months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, transmission lines, foundations, and other associated facilities from the lot. The owner shall also restore the land to its original condition pre-dismantling condition. If the owner fails to dismantle or remove the PSES and restore the land within the six-month time-period, the township may, but shall not be required to, complete the decommissioning and land restoration at the owner's expense.
  
  - iii. At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security to the township to secure the expense of dismantling and removing the PSES and restoration of the land to its original condition. The financial security shall be in the amount of 110 percent of the costs of decommissioning. The decommissioning funds shall be posted and maintain during the life of the project in the form of a performance bond, irrevocable letter of credit or

other financial form of security acceptable to Township Supervisors.

iv. An independent and certified professional engineer shall be retained by Township Supervisors at the owner's cost to estimate the total cost of decommissioning without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment. Thereafter, the owner shall retain an engineer to provide the township with cost estimates of decommissioning after the first year of operation and every fifth year thereafter.

- O. Ground Mounted PSES. In addition to the other requirements of this subsection, ground mounted PSES shall also comply with the following:
- i. Minimum lot size of 10 acres.
  - ii. Minimum setback from a front lot line shall be 200 feet, and 100 feet from all other lot lines.
  - iii. Maximum height of ground mounted solar panels shall be 10 feet above the ground elevation surrounding the system. All PSES components and structural supports for connections shall not exceed the maximum building height of the I-1 Zoning District.
  - iv. Maximum Building Coverage. The maximum impervious surface of the solar arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, along with the Solar Related Equipment shall be considered buildings for purposes of this subsection and shall comply with the maximum percentage of building coverage under the 1-1 Zoning District.
- P. Roof and Wall Mounted PSES. The total height of a building with a roof and/or wall mounted system shall not be more than three feet above the maximum building height specified for a principal building within the I-1 Zoning District.
- Q. Stormwater runoff from an PSES shall be managed in accordance with the requirements of the Township Stormwater Management Ordinance. Proof of compliance shall be required at the time of the conditional use application.
- R. Insurance. The PSES owner or operator shall maintain a current general liability policy covering:

- i. \$1,000,000 of personal or bodily injury to or death of any person.
- ii. \$3,000,000 for personal or bodily injury to or death of any number of persons arising from any one occurrence.
- iii. \$1,000,000 dollars for any instance of property damage.
- iv. An umbrella liability insurance coverage shall also be maintained with coverage to be not less than \$3,000,000 for each occurrence and \$3,000,000 in the aggregate. Certificates of insurance for the above required coverage shall be provided to the township annually.

S. Application. In addition to the information required in zoning permit application, the applicant shall prepare and submit a narrative and survey map at the time of application for a conditional use, which includes:

- i. An overview of the project;
- ii. The project location;
- iii. The approximate generating capacity of the PSES in kilowatt hours;
- iv. The approximate number, representative types and height or range of heights of PSES to be constructed, including their generating capacity, dimensions and respective manufacturers;
- v. A description of accessory facilities;
- vi. A listing and map of the lots on which the proposed PSES will be located; and
- vii. A site plan showing the planned location, lot lines, and setback lines of the PSES and Solar Related Facilities, including access roads.

(46) Solar Energy Systems, Accessory (ASES).

A. Compliance with Industry Standards. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating

and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the UCC, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

B. Installers. ASES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

- i. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for PV installation.
- ii. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.
- iii. For residential applications, a registered home improvement contractor with the Pa Attorney General's Office.

C. Maintenance. Upon completion of installation, the ASES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the ASES was constructed. Failure of the owner to maintain the ASES in good working order is grounds for enforcement action by the zoning officer.

D. Underground Requirements. All on-site utility, transmission, and plumbing lines shall be placed underground.

F. Signage. The display of advertising is prohibited except for a permitted nameplate and identification sign.

G. Glare.

- i. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby properties, structures, buildings, or roadways.
- ii. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on

neighboring or adjacent uses either through siting or mitigation.

H. Solar Easements. If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant, owner, or landowner for an ASES, such matter shall be carried out as a private agreement among the parties of which the municipality shall not be a party. The municipality shall also not be responsible for ensuring the maintenance or enforcement of any solar easement.

I. Roof or Wall Mounted.

- i. Location. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
- ii. Setbacks.
  - a. Wall mounted ASES shall comply with the setbacks for an accessory structure under this ordinance.
  - b. Roof mounted ASES shall not extend beyond any portion of the roof edge.
- iii. Height. ASES mounted on roofs or walls of any building shall be subject to the maximum height requirement specified for a principal building within the zoning district in which it is located.
- iv. Code Compliance. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the UCC and that the roof or wall must be capable of holding the load imposed on the structure. Applications for roof mounted ASES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the ASES.

J. Ground Mounted.

- i. Setbacks.
  - a. The minimum yard setbacks from side and rear property lines shall comply with the required setbacks for a principal structure setback of the zoning district in which it is located.
  - b. Ground mounted ASES are prohibited in front yards, between the principal building and the public

street, excluding front yard locations which are located not less than 200 feet from the front property line.

- ii. Height. Freestanding ground mounted ASES shall not exceed 20 feet in height above the ground elevation surrounding the systems.
- iii. Maximum Impervious Surface.
  - i. The surface area of the arrays of a ground mounted ASES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the percentage of impervious cover. ASES shall not exceed the maximum impervious cover for the zoning district in which it is located.
  - ii. If applicable, the applicant shall submit a stormwater management plan that demonstrates compliance with the municipal stormwater management regulations.
- iv. Screening. Ground mounted ASES when located less than 50 feet from a property line shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screening shall be in accordance with ordinance.

K. Safety and Warning Signage. Appropriate safety and warning signage concerning voltage shall be affixed to ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

L. Location Restrictions. A ground mounted ASES may not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other location on the property that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(47) Solid Waste Facility (Landfill, Solid Waste Transfer Facility And Solid Waste-To-Energy Facility). All solid waste storage, disposal, incineration or processing shall meet the following requirements:

A. The use, activity or any aspect of the operation shall be located not less than 250 feet from any street right-of-way, lot line, 100 year floodplain, edge of a surface water body, creek, stream or wetland; and not less than 1,500 feet

from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.

B. Burning and incineration is prohibited, except for an approved waste to energy facility.

C. The site shall contain a minimum of three access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Black Creek Township Subdivision and Land Development Ordinance and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. One of the access drives shall be restricted to use by emergency vehicles only, and shall be clearly marked and identified as such. The application shall also be accompanied by a plan of the site that includes the location of access drives and proposed structures, and an emergency response plan to address potential safety concerns associated with the use.

D. The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.

E. A solid waste facility shall have a maximum lot size of 25 acres, whether developed initially or cumulatively, with a maximum total capacity to treat or dispose of waste being 500 tons per day.

F. Except for the required access drives (which shall be secured by locked gates, which may only be open during business hours) the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained. In addition, an attendant shall be present during all periods of operation or dumping to ensure that: (1) only authorized waste is accepted; (2) the access drives remain unobstructed; and (3) litter, garbage and rubbish is collected from the site and its surrounding on a regular daily basis prior to the closing of business on each day.

G. The days and hours of operation shall be limited to Monday through Friday from 7 a.m. to 5 p.m. and Saturday from 7 a.m. to 4:00 p.m. The facility shall not conduct any approved operations at any other times and days.

H. The operator shall take all necessary precautions to prevent litter, garbage and rubbish from scattering off site, and shall regularly monitor the site and its surroundings collecting litter, garbage and other rubbish that may have escaped from the facility or trucks.

I. Dangerous materials such as radioactive, hazardous or infectious

waste may not be stored, processed, disposed of, or incinerated on site.

J. All loading and unloading of solid waste shall occur within an enclosed building, and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within an enclosed building or enclosed container.

K. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.

L. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

(48) Trucking Terminal.

A. The minimum lot size shall not be less than four acres.

B. Access drives shall be sufficient in width to accommodate the use, but in no event exceed 25 feet in width. Access drives must connect to a public street.

C. Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped and maintained in good condition.

D. No parking, loading, idling, storage of any kind, or trucking use shall be allowed within the buffer yard. All truck idling in excess of 15 minutes shall be prohibited.

(49) Warehouse and Distribution Facility.

A. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited.

B. Access drives shall be sufficient in width to accommodate the use, but in no event shall any access drive exceed 25 feet in width.

C. No activity including off-street parking shall be allowed within 150 feet of a property line abutting a district having residence as a principal permitted use.



D. All truck idling in excess of 15 minutes shall be prohibited.

(50) Water (Ground and Spring) Withdrawal.

A. The minimum lot size shall be 25 acres.

B. Any silos shall meet the height requirements of the zoning district in which the property is located.

C. Loading and unloading of trucks shall constitute a trucking facility and shall meet the specific use requirements for a trucking facility.

D. A bottling or processing plant shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the water withdrawal is taking place provided that industrial uses are permitted by right within the zoning district in which the property is located.

**ARTICLE 9**  
**ADMINISTRATION**

Section 901. Zoning Officer.

(1) Appointment and Qualifications. The zoning officer shall be appointed by the township board of supervisors. The board of supervisors may designate others to assist the zoning officer, who will serve with the same authority and duties as the zoning officer. The zoning officer shall not hold any elective office within the township but may hold other appointed offices provided that those offices do not conflict with his or her duties as zoning officer. The zoning officer shall meet qualifications established by the board of supervisors, which shall at minimum include a working knowledge of municipal zoning.

(2) Duties And Powers of The Zoning Officer. The powers and duties of the zoning officer shall include but not be limited to the following:

- A. Administering and enforcing the provisions of this ordinance in accordance with its literal terms. In performing these duties, the zoning officer shall not have the power to permit any construction, alteration or any use or change of use to land or structures, which does not conform to the applicable provisions of this Ordinance.
- B. Receiving and reviewing all types of zoning applications.
- C. Approve or deny zoning permits and certificates in accordance with the provisions of this ordinance.
- D. Keeping records of all applications, permits, certificates, complaints, enforcement actions, investigations, and decisions of the zoning hearing board, with all such records being the property of the township and being available for public inspection and copying pursuant to the Pennsylvania Right to Know Law and any ordinance, policy, rule, or regulation of the township.
- E. Conducting property inspections.
- F. Maintaining the official zoning map and zoning ordinance, including all amendments thereto.
- G. Notifying the zoning hearing board of scheduled zoning hearings, and the governing body of conditional use hearings, including assisting the secretary in advertising the hearings.
- H. Making certain that each property subject to a hearing is conspicuously posted not less than seven days prior to the hearing.

I. Attending and participating in proceedings before the zoning hearing board and governing body and furnishing such facts, records and any other information that may be necessary to assist the applicable board in rendering its decisions.

J. Reviewing subdivision and land development plans for compliance with the provisions of this ordinance and providing a report to the board of supervisors and planning commission or committee.

Section 902. Zoning Permits.

(1) Permit Required. A zoning permit shall be required prior to:

A. Erecting, constructing, moving, placing or expanding any building, structure, or sign.

B. Using, changing the use of, or expanding the use of any land, structure or building.

C. Demolition or all or any part of a building or structure.

(2) Filing with Zoning Officer/Form of Application. An application for a zoning permit shall be made in writing by the landowner, the authorized agent of the landowner, or any person having an equitable interest in the property with the permission of the landowner, on a form provided by the township. An application when completed shall be filed with the zoning officer along with the required fees. A zoning permit application shall include the following information:

A. The name and address of the applicant, and the landowner if than the applicant.

B. The address of the property and a description of its location.

C. A detailed description of the use and building or structure.

(3) Site Plan. Zoning permit applications shall be accompanied by two copies of a site plan drawn to scale and showing the following:

A. The actual dimensions and shape of the property to be built upon including existing and proposed access drives, roads and streets identifying them by name.

B. The location of any watercourses and floodplain areas.

C. The location and dimensions on the lot of all existing and proposed structures, buildings and signs, parking and loading facilities, with existing features being clearly distinguished from proposed features.

D. The exact size and location of existing and proposed uses of land, with existing uses being clearly distinguished from proposed uses.

E. The location of any existing and proposed wells and septic systems or public water and sewer lines.

(4) Time Period For Processing Application. All zoning permits shall be approved or denied by the zoning officer within 30 days from the date of receipt of a fully completed application. An application shall be deemed complete when the application has been received by the zoning officer, fully completed, and accompanied by a site plan and the applicable fee.

(5) Expiration of Zoning Permit. A zoning permit shall expire two years from the date of issuance, if the work described in the permit has not been completed. Once a permit has expired, the applicant or landowner must reapply for another zoning permit and the zoning officer may approve or deny the application under the provisions of the ordinance in effect at the time of the new application.

(6) Revocation of Permits. The zoning officer may revoke, withdraw or suspend a permit or approval issued under the provisions of this ordinance in the following instances:

A. When a permit was issued in error under the provisions of this ordinance.

B. When the application or plan on which the permit or approval was based contains false statements, misrepresentations of fact, or misleading information.

C. When there exists a violation of any condition imposed by the zoning hearing board or governing body as part of its written decision.

D. When just or good cause exists as set forth in this ordinance.

(7) Double the Zoning Permit Fee. For any activity requiring a zoning permit under this section, that is started without first obtaining the required zoning permit, the permit fee shall be twice the amount of the permit fee established by resolution of the board of supervisors on the schedule of permit fees.

### Section 903. Zoning Certificate.

(1) Certificate of Zoning Compliance. A certificate of zoning compliance

shall be required prior to:

- A. The use or occupancy of any new building or structure except for detached accessory residential structures less than 1,000 square feet in total floor area.
- B. The change of use of any principal non-residential building or structure.
- C. The use, occupancy or change of use of any land.

(2) Filing with Zoning Officer/Form of Application. All applications for zoning certificates shall be made in writing on forms prescribed by the township and shall include all information necessary for the zoning officer to ascertain compliance with the provisions of this ordinance.

(3) Time Limitation. All applications for zoning certificates shall be made by the landowner or an authorized agent for the landowner prior to occupying or using a structure, building or parcel of land for which a zoning certificate is required. Upon the making of an application for a zoning certificate, the zoning officer shall have 30 days from receipt of the application to approve or deny it. A zoning certificate may only be approved by the zoning officer when he or she has determined that the activity complies with the provisions of this ordinance.

Section 904. Temporary Permits. A zoning permit shall be required for all temporary uses of a structure or land. The zoning officer shall issue a zoning permit for any of the following:

- (1) Short-term special events provided that:
  - A. The total event is limited to no more than 14 days.
  - B. Although not otherwise permitted within the zoning district where the event is to be located, it does not adversely affect or interfere with the use and enjoyment of any other permitted use within that zoning district, nor does it prohibit quiet and peaceful enjoyment of adjoining or surrounding properties.
  - C. Sufficient parking and traffic control will be available for the duration of the event, without obstructing parking that is required to serve other uses.
- (2) Retail sales provided that:
  - A. The property is located within a zoning district that allows retail sales.

B. Any structure associated with the use meets the applicable dimensional regulations of the zoning district in which the structure is located.

C. The proposed use and structures must not:

i. Obstruct safe sight distances.

ii. Interfere with vehicular and pedestrian travel and off-street parking spaces and loading facilities that are required to serve permanent permitted uses on the property where the retail sales are to take place.

iii. Violate any other local and state laws or regulations.

(3) Temporary Structures provided that:

A. The structure is necessary to service permitted on-site construction activities.

B. The structure is removed upon completion of construction.

C. The structure is not used for living quarters.

D. The construction is a lawful activity for which a zoning permit has been issued.

E. The structure meets the minimum setback requirements for an accessory structure for the zoning district in which the structure will be located.

F. No more than two such structures are located on a lot.

(4) Non-traditional temporary storage units, including those commercially known as “PODS” or the enclosed portion or “container” of a box trailer with or without wheels, provided that

A. Units shall be located at least 15 feet from all streets.

B. Units shall be permitted for a maximum of 90 consecutive days in any one calendar year.

#### Section 905. Enforcement Procedures.

(1) Enforcement Notice. If it appears to the zoning officer that a violation of this ordinance has occurred, the zoning officer shall initiate enforcement proceedings by issuing an enforcement notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation

notices regarding the parcel of land, and to any other person requested in writing by the owner of record. The enforcement notice shall state at least the following:

- A. The name of the owner of record, and any other person against whom the township intends to act.
- B. The location and address of the property in violation.
- C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable sections of this ordinance.
- D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- E. That the recipient of the notice has the right to appeal to the zoning hearing board within thirty (30) days from date of the issuance of the notice.
- F. That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.

(2) In any appeal of an enforcement notice to the zoning hearing board, the Township shall have the responsibility of presenting evidence first.

(3) Any filing fee paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the township if the zoning hearing board or any court in a subsequent appeal, rules in the appealing party's favor.

(4) Private Cause 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 this ordinance, the board of supervisors or, with the approval of the board of supervisors, an officer or agent of the township, or any aggrieved owner or tenant of real property who shows that his or her property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings 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 of this ordinance. When 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 instituted by serving a copy of the complaint on the governing body. No action may be taken until such notice has been given.

(5) Jurisdiction/Enforcement Remedies.

A. Jurisdiction. The magistrate shall have initial jurisdiction over proceedings brought under this ordinance.

B. Enforcement Remedies. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable thereof in a civil enforcement proceeding commenced by the township or the zoning officer, shall pay a judgment of not more than \$500.00 dollars, plus all court costs, including reasonable attorney fees incurred by the township as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magistrate. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magistrate determines that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this ordinance to have believed that there was no such violation. In such cases, 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 magistrate and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this ordinance shall be paid over to the township.

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

D. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the township the right to commence any action for enforcement pursuant to this ordinance.

Section 906. Fees. The board of supervisors adopts the schedule of fees, charges, and expenses for applications, permits, certificates, appeals to the zoning hearing board, conditional use appeals to the governing body, amendments to the zoning ordinance and zoning map, and any other matters relating to the administration of this ordinance. The township fee schedule shall be adopted by resolution of the board of supervisors and made available for public inspection. The fee schedule may be amended from time to time by resolution of the board of supervisors. No application or appeal shall be considered filed until all related fees, charges and expenses have been paid in full.

## ARTICLE 10



## AMENDMENTS

### Section 1001. Amendment Procedure.

(1) Amendments to the Zoning Ordinance and Zoning Map. The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the zoning map, may from time to time be amended by the board of supervisors in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(2) Curative Amendments.

A. Initiated by Landowner. A landowner who desires to challenge on substantive grounds the validity of this ordinance or the zoning map, or any provision thereof, which prohibits or restricts the use or development of land in which he or she has an interest, may submit a curative amendment to the board of supervisors with a written request that his or her challenge and proposed amendment to cure the alleged defect, be heard and decided by the board of supervisors in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

B. Initiated by Municipality. If the board of supervisors determines this ordinance or the official zoning map, or any portion thereof, is substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## ARTICLE 11

## ZONING HEARING BOARD AND GOVERNING BODY

Section 1101. Membership of Board. The zoning hearing board shall consist of three residents of the township appointed by the board of supervisors. The existing terms of office shall continue, with terms of office being five years and so fixed that the term of office of one member shall expire each year. Members of the zoning hearing board shall hold no other office in the township.

Section 1102. Alternate Members. The board of supervisors may appoint alternate members to the zoning hearing board in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Section 1103. Removal of Members. Any zoning hearing board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for any other just cause by a majority vote of the board of supervisors, 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.

Section 1104. Organization of Board.

(1) Election of Officers. The zoning hearing board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.

(2) Quorum/Hearing Officer. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the zoning hearing board. The zoning hearing board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the zoning hearing board. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the zoning hearing board shall designate as many alternate members of the board to sit on the zoning hearing board as may be needed to provide a quorum. Any alternate member of the zoning hearing board shall continue to serve on the zoning hearing board in all proceedings involving the matter or case for which the alternate was initially appointed until the zoning hearing 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.

(3) By-laws/Records. The zoning hearing board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the township and state laws. The zoning hearing board shall keep full public records of its business, which records shall be the property of the township, and the board chairperson or its secretary shall submit an annual report of its activities to the board of supervisors.

Section 1105. Expenditures For Services. Within the limits of appropriated funds, the zoning hearing board may employ secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

Section 1106. Hearings. The zoning hearing board shall conduct hearings and render decisions in accordance with the following:

(1) Notice of Hearings. Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. The posting may be performed by the applicant provided that an affidavit of posting is submitted to the zoning hearing board at the commencement of the hearing. No other written notices shall be required.

(2) Fees For Hearings. The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and board members, notice and advertising costs and necessary administrative overhead connected with the hearing. 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.

(3) Time Periods For Hearings. The first hearing before the zoning hearing board or hearing officer shall commence within 60 days from the date of receipt of the applicant's application unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the zoning hearing board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his, her or its case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the zoning hearing board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. The applicant may, upon request, be granted additional hearings to complete his, her or its case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

(4) Conduct of Hearings. The hearings shall be conducted by the zoning hearing board, or the zoning hearing board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the zoning hearing board; however, the appellant or the applicant, as the case may be, in addition to the township, may, prior to the decision of the hearing, waive

decision or findings by the zoning hearing board and accept the decision or findings of the hearing officer as final.

(5) Parties to the Hearings. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The zoning hearing board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the zoning hearing board for that purpose.

(6) Oaths/Subpoenas. The chairman or acting chairperson of the zoning hearing 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.

(7) Right to Representation/Evidence/Argument. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(8) Rules of Evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(9) Stenographic Record and Transcript Fees. The zoning hearing board or the hearing officer shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the zoning hearing board. The cost of the original transcript shall be paid by the zoning hearing board if the transcript is ordered by the zoning hearing board or hearing officer or shall be paid by the person appealing from the decision of the zoning hearing board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(10) Communications and Site Visits. The zoning hearing board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(11) Time Periods for Hearings, Decisions and Findings. The zoning hearing board or the hearing officer shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the zoning hearing board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon

together with the reasons thereof. Conclusions based on any provisions of this ordinance shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the zoning hearing board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the zoning hearing board prior to final decision or entry of findings, and the zoning hearing board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for substantive challenges to the validity of the ordinance under Section 916 of the Pennsylvania Municipalities Planning Code, where the zoning hearing board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (3) above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the zoning hearing board to meet or render a decision as hereinabove provided, the zoning hearing board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the zoning hearing board fails to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

(12) Mailing, Copies and Notice of Decisions. 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, her or it not later than the day following its date. To all other persons who have filed their name and address with the zoning hearing board not later than the last day of the hearing, the zoning hearing board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

#### Section 1107. Mediation Option.

(1) Parties to zoning hearing proceedings under this Article 9 may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board, in no case shall the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, the procedures in this Article 9 once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(2) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

- A. Funding mediation.
- B. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
- C. Completing mediation, including time limits for such completion.
- D. Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
- E. Identifying all parties and affording them the opportunity to participate.
- F. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
- G. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of this act.

(3) No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

Section 1108. Jurisdiction of Zoning Hearing Board. The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- (1) Substantive challenges to the validity of any land use ordinance, except for those brought before the board of supervisors such as in the case of a landowner curative amendment.
- (2) Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the zoning hearing board within 30 days after the effective date of the Ordinance subject to the appeal.
- (3) 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 an application, the issuance of any cease and desist order, the revocation of a zoning permit or building permit or the registration or refusal to register any nonconforming use, structure or lot.
- (4) Appeals from a determination by the zoning officer with reference to the

administration of any flood plain provision or regulation within any land use ordinance.

- (5) Applications for variances from the terms of this ordinance.
- (6) Applications for special exceptions under this ordinance.
- (7) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

Section 1109. Variances.

(1) Provisions for Granting Variances. The zoning hearing board shall hear requests for variances if it is alleged that the provisions of this ordinance inflict unnecessary hardship upon the applicant. All applications for variances shall be on forms proscribed by the township and shall require preliminary application to the zoning officer. The zoning hearing board may grant a variance, provided that all of the following findings are made where relevant in a given case:

A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the appellant.

D. 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 of adjacent property, nor be detrimental to the public welfare.

E. 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.

(2) Referral to Planning Commission or Committee. The zoning hearing board prior to deciding a use variance application may refer that application to the township planning commission or committee for review and recommendation to the zoning hearing board.

(3) Reasonable Conditions and Safeguards. In granting any variance, the zoning hearing board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Section 1110. Special Exceptions.

(1) Provisions for Granting Special Exceptions. When special exceptions are allowed by this ordinance, the zoning hearing board shall hear and decide requests for such special exceptions in accordance with this ordinance. All applications for special exceptions shall be on forms proscribed by the township and shall require preliminary application to the zoning officer. The zoning hearing board shall grant approval only upon the determination that all applicable standards, criteria, and provisions within this ordinance, including the following have been met:

- A. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.
- B. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion, and providing for the safety and convenience of pedestrian and vehicular traffic.
- C. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.
- D. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
- E. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.
- F. The proposed use and development shall not be injurious to the public health, safety, welfare and morals.



G. That the specific standards set forth for each particular use for which a special exception may be granted have been met.

H. The zoning hearing board may require the applicant to submit an EIS as set forth in Section 1111(5) below.

(2) Referral to Planning Commission or Committee. The zoning hearing board prior to deciding a special exception application may refer that application to the township planning commission or committee for review and recommendation.

(3) Reasonable Conditions and Safeguards. In granting special exception approval, the zoning hearing board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### Section 1111. Conditional Uses.

(1) Additional Information Required. In addition to the required site plan and information to accompany a zoning permit application under this ordinance, a conditional use application shall include the following:

- A. Ground floor plans and elevations of proposed structures;
- B. A scaled drawing (site plan) of the site, including finished topography with detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and
- C. A written description of the proposed use in detail to demonstrate compliance with all applicable provisions of this ordinance.

(2) Provisions for Granting of a Conditional Use. When a conditional use is allowed by this ordinance, the governing body shall hear and decide requests for such in accordance with provisions of this ordinance. All applications for conditional uses shall be on forms proscribed by the municipality and shall require preliminary application to the zoning officer. The governing body shall grant approval only upon the determination that all applicable standards, criteria, and provisions within this ordinance, including the following have been met:

- A. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.
- B. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion and providing for the safety and convenience of pedestrian and vehicular traffic.

C. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.

D. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.

E. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.

F. The proposed use and development shall not be injurious to the public health, safety, welfare, and morals.

G. The specific standards set forth for each particular use for which a conditional use may be granted have been met.

H. The proposed use meets the other applicable requirements of this ordinance.

I. The proposed use shall be consistent with the purpose and intent of the zoning ordinance, the statement of community development objectives, the purposes for which the zoning district was created, and the comprehensive plan, if one is adopted by the municipality.

(3) Referral to Planning Commission or Committee. The governing body prior to deciding a conditional use application may refer the application to the township planning commission or committee for review and recommendation.

(4) Reasonable Conditions and Safeguards. In granting conditional use approval, the governing body may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code.

(5) Environmental Impact Statement (EIS). An EIS may be required by the governing body to be performed by the applicant. The purpose of this EIS is to disclose the impacts of a proposed use upon the environment so that the governing body could decide whether to approve or deny the application or approve the application with conditions. The statement, if required, shall be prepared by a professional engineer licensed within the Commonwealth of Pennsylvania and shall include, at a minimum, an analysis of the following:

A. Soil Types.

- i. U.S.D.A. Soil Types (show on map).
- ii. Permeability of soil on the site.
- iii. Rate of percolation of water through the soil for each five acres.
- iv. Surface Waters
  - a. Distance of site from nearest surface water and head waters of streams.
  - b. Sources of runoff water.
  - c. Rate of runoff from the site.
  - d. Destination of runoff water and method of controlling downstream effects.
  - e. Chemical additives to runoff water on the site.
  - f. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Luzerne Conservation District.
  - g. The information shall be set forth in a storm water management plan meeting the requirements of the SALDO.
- B. Ground Cover (Vegetation and Animal Life).
  - i. Extent of existing impervious ground cover on the site.
  - ii. Extent of proposed impervious ground cover on the site.
  - iii. Type and extent of existing vegetative cover on the site.
  - iv. Extent of proposed vegetative cover on the site.
  - v. Type of animal life and effect on habitat.
  - vi. Topographic and Geologic
    - a. Maximum existing elevation of site.
    - b. Minimum existing elevation of site.

- c. Maximum proposed elevation of site.
  - d. Minimum proposed elevation of site.
  - e. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
  - f. Surface and subsurface geology.
- C. Ground Water.
- i. Average depth to seasonal highwater table.
  - ii. Minimum depth to water table on site.
  - iii. Maximum depth to water table on site.
  - iv. Quality.
  - v. Water Supply
    - a. The source and adequacy of water to be provided to the site.
    - b. The expected water requirements (g.p.d.) for the site.
    - c. The uses to which water will be put.
- D. Sewage Disposal.
- i. Sewage disposal system (description and location).
  - ii. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
  - iii. Expected daily volumes of sewage.
  - iv. Affected sewage treatment plant's present capacity and authorized capacity.
- E. Solid Waste.
- i. Estimated quantity of solid waste to be developed on the site during and after construction.

- ii. Method of disposal of solid waste during and after construction.
  - iii. Plans for recycling of solid waste during and after construction.
- F. Air Quality.
- i. Expected changes in air quality due to activities at the site during and after construction.
  - ii. Plans for control of emissions affecting air quality.
  - iii. Establishment of air quality goals, including a description of any programs to be implemented to achieve those air quality goals, a development plan for control strategies, and a schedule explaining the manner for on-going evaluations.
- G. Noise.
- i. Source and magnitude of noise levels expected to be generated at the site during and after construction.
  - ii. Proposed method for control of additional noise on site during and after construction.
- H. Property Values.
- i. Identify, measure, and explain the impact of the proposed use on real estate values.
  - ii. To measure the impact of a proposed use on property values, sale transactions of three similarly situated properties within the neighborhood that sold in the last six months shall be appraised.
  - iii. The data once collected shall be analyzed on a sales comparison approach before development of the proposed use and assuming post-development of the proposed use. Similarly situated uses in other areas should be examined when possible to determine what, if any, impact the proposed use will have on surrounding property values.

- I. Land and Water Surface Use and Community Character.
  - i. Past and present use of the site with attention to storage or disposal of toxic or hazardous waste.
  - ii. Adjoining land uses and character of the area.
  - iii. Type and concentration of existing watercraft uses.
- J. Critical Impact Areas. Any area, condition, or feature which is environmentally sensitive, or which, if disturbed during construction, would adversely affect the environment. Critical impact areas include stream corridors, streams, wetlands, slopes greater than 15 percent, highly acid or highly erodible soils, areas of highwater table, and mature stands of native vegetation and aquifer recharge and discharge areas.
- K. Historic Resources. Identification of structures or sites of historic significance and probable effect of the project.
- L. Transportation. Existing network traffic volumes and capacities and need for improvements required by the project.
- M. Law Enforcement. Existing law enforcement capabilities of the municipality and state; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
- N. Community Facilities and Services. Existing community facilities and services and how the proposed use will affect those facilities and services, including projected needs for additional facilities and services.
- O. Economic and Social Impacts. The local economy and social structure and how the proposed use is likely to affect them.
- P. Additional Requirements. In addition to the above requirements, the zoning hearing board or governing body may require such other information as may be reasonably necessary for the applicable board to evaluate the proposed use for its impacts upon the community, including, but not limited to:
  - i. A description of alternatives to the proposed use.
  - ii. A statement of any adverse impacts which cannot be avoided.

- iii. Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
- iv. A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each with copies of all completed applications and submissions.
- v. A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

(6) Conditional Use Hearing. Conditional use hearings shall be conducted by the governing body in the same manner as zoning hearings are conducted under the Pennsylvania Municipalities Planning Code.

Section 1112. Initial Determination to be Made by the Zoning Officer. An application for a variance, special exception, or conditional use shall not be submitted to or considered by the zoning hearing board or governing body until the applicant has submitted a zoning permit application and site plan to the zoning officer and the zoning officer has denied the application.

Section 1113. Appellant Before a Board. Appeals before the zoning hearing board or governing body may be filed with the zoning hearing board or governing body in writing by the affected landowner or by an aggrieved person or party. The zoning hearing board or governing body shall not accept appeals or applications or proceed with any hearings from any tenant or equitable owner of a property without the express written consent of the landowner.

Section 1114. Appeals To Court. The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing review of any decision rendered under this ordinance.

(1) Jurisdiction and Venue on Appeal and Time for Appeal. All appeals from all land use decisions rendered under this Article shall be taken to the Court of Common Pleas of Luzerne County within 30 days from the date of mailing the decision, or in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given.

(2) Appeals to Court; Commencement; and Stay of Proceedings.

A. Land use appeals shall be entered as of course by the prothonotary upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

B. Upon filing of a land use appeal, the prothonotary shall forthwith, as of course, send to the township board of supervisors, zoning hearing board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding the township board of supervisors or zoning hearing board, within 20 days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the township board of supervisors or zoning hearing board at the time it received the writ of certiorari.

C. If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

D. The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him, her, or it if an appeal is taken from a final decision of the court. The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

(3) Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service



of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure

(4) Hearing and Argument of Land Use Appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the court pursuant to section 916.1 of the Pennsylvania Municipalities Planning Code governing substantive challenges to the validity of this Ordinance shall not be remanded for further hearings before anybody, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board, or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

(5) Judicial Relief.

A. In a land use appeal, the court shall have power to declare an ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal.

B. If the court finds that an ordinance or map, or a decision or order there under, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.

C. Upon motion, any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he or she shall be subject to examination or cross-examination by any party. He or she shall be paid reasonable compensation for his or her services which may be assessed against any or all of the parties as determined by the court. The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such

supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

D. The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.