

North East Township Zoning Ordinance, July 2024

# **North East Township Zoning Ordinance**

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**Prepared By:**

**The North East Township Planning Commission**

**Assisted by:**

**The Erie County Department of Planning & Community Development**

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## **Article 1 General Provisions**

### **101 Authority**

This chapter is enacted and ordained under the grant of powers contained in the Pennsylvania Municipalities Planning Code.

### **102 Title**

This chapter shall be known and may be cited as the North East Township Zoning Ordinance. The accompanying district map shall be known, and may be cited, as the North East Township Zoning Map.

### **103 Effective Date**

This chapter shall take effect upon its enactment by the North East Township Board of Supervisors.

### **104 Purpose and Provisions**

The purpose and provisions of this chapter are those as set forth by Sections 603, 603.1 and 604 of the Pennsylvania Municipalities Planning Code, and to implement the Community Development Objectives of the North East Area Comprehensive Plan. See Section 105 of this chapter.

### **105 Community Development Objectives**

The Community Development Objectives of North East Township are enumerated in the North East Area Comprehensive Plan, and are as follows:

- A. Provide for a rational and orderly pattern of land use within the North East Area.
- B. Encourage quality, attractive, and economically sound residential, commercial and industrial development.
- C. Provide diverse housing opportunities, including housing that is affordable.
- D. Ensure that proposed development and public facilities are consistent with the character and environmental limitations of the area.
- E. Preserve and protect the North East Area's natural resources to the extent possible.
- F. Preserve and protect the North East Area's agricultural lands and the viability of agricultural operations to the extent possible.
- G. Protect and maintain the aesthetic qualities and rural character of the North East Area.
- H. Guide development within the North East Area in order to provide the most efficient use of existing and planned public facilities and utilities.
- I. Ensure adequate and safe roads and other public facilities by limiting land use intensity to the capacity of the roads or facilities.
- J. Promote economy in local government expenditures.
- K. Protect landowners from potential adverse impacts of adjoining developments.

### **106 Applicability**

- A. This chapter shall apply throughout North East Township.

- B. Any of the following activities or any other activity regulated by this chapter shall only be carried out in conformity with this chapter:
  - 1. Use, occupation, erection, construction, reconstruction, movement, alteration, razing, demolition, removal, placement or extension (vertical or horizontal) of a structure, building or sign, unless relief is granted by the Zoning Hearing Board.
  - 2. Change of the type of use or expansion of the use of a structure, building or area of land.
  - 3. Creation of a lot or alteration of lot lines.
  - 4. Creation of a new use.
- C. This chapter shall not apply to an 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 the municipality 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 a party to the proceedings.

### **107 Interpretation**

In interpreting and applying this chapter, its provisions shall be held to be the minimum requirements for promotion of the health, safety, morals and general welfare of North East Township. Any use permitted subject to the regulations prescribed by the provisions of this chapter shall conform with all the regulations of the zoning district in which it is located and with all other pertinent regulations of this and other related ordinances. This chapter is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions or reservations contained in deeds or other agreements, but if this chapter imposes more stringent restrictions upon the use of buildings, structures and land than are elsewhere established, the provisions of this chapter shall prevail. Wherever and whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted laws, rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern. Where more than one provision of this chapter controls a particular matter, the provision that is more restrictive shall apply. In interpreting the language of this chapter to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the adopted language, in favor of the property owner and against any implied extension of the restriction.

### **108 Municipality Liability**

The granting of a Zoning Permit for the erection and/or use of a structure, building or lot shall not constitute a representation, guarantee or warranty of any kind or nature by the municipality, or an official or employee, thereof, of the safety of any structure, building, use or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against such public official or employee for any damage that may be pursuant thereto.

### **109 Disclaimer**

It is recognized that: the Act of June 22, 1937 (P.L. 1987, NO. 394) known as “The Clean Streams Law”; the Act of May 31, 1945 (P.L. 1198, No 418) known as the “Surface Mining Conservation and Reclamation Act”; the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as “The Bituminous Mine Subsidence and Land Conservation Act”; the Act of September 24, 1968 (P.L. 1040, No. 318) known as the “Coal Refuse Disposal Control Act”; the Act of December 19, 1984 (P.L. 1140, No. 223) known as the “Non-coal Surface Mining Conservation and Reclamation Act”; the Act of June 30, 1981 (P.L. 128, No. 43) known as the “Agricultural Area Security Law”; the Act of June 10, 1982 (P.L. 454, No. 133) entitled “An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances”: and the Act of May 20, 1993 (P.L. 12, No 6) known as the “Nutrient Management Act” preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of those Acts. Nothing contrary to those Acts shall be mandated by this chapter.

### **110 Validity/Severability**

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in this chapter or the zoning district boundaries as shown on the zoning map, shall, for any reason, be declared to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not effect or impair the validity of this chapter as a whole or any of the remaining article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the chapter. The remaining portions of the chapter shall remain in effect as though the part or section declared unconstitutional or invalid was never a part thereof.

### **111 Repeal**

The pre-existing North East Township Zoning Ordinance, as amended, is hereby expressly repealed; provided, further that nothing in this chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this chapter. All ordinances or parts of ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the pre-existing Zoning Ordinance as amended shall, as nearly as possible, be construed to reference this chapter.

## Article 2 Definitions

### 201 Interpretation

For the purpose of this chapter, words used in the present tense shall include the future. The singular number shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter. The word "shall" is always mandatory. The phrase "used for" includes "arranged for," "person" includes an individual, corporation, partnership, incorporated association, or any other legal entity. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character. Except as defined within this chapter, all words and phrases shall have their normal meanings and usage.

### 202 Specific Terms

Abandoned Sign: Defined in Section 903.

Abandonment: The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut or Abutting: To physically touch or border on; or to share a common property line but not overlap. Buildings which physically touch. Areas of contiguous lots that share a common lot line, not including lots entirely separated by a street, public alley open to traffic or a perennial waterway.

Access or Access Drive: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Accessory Building: A building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

Accessory Dwelling Unit (ADU): A second dwelling unit created within, added to, or detached from a single-family dwelling that is subordinate in size to the principal single-family dwelling.

Accessory Solar Energy System (ASES): Defined in Section 1303.

Accessory Structure: A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. An accessory structure shall exclude any vehicle as defined by the Pennsylvania Motor Vehicle Code.

Accessory Use: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Acre: A measure of land area containing 43,560 square feet.

Activity: The use of land for a specific purpose.

Addition: (1) A structure added to the original structure at some time after the completion of the original; (2) an extension or increase in floor area or height of a building or structure.

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Address Sign: Defined in Section 903.

Adjacent Land: See “Adjoining Lot or Land”

Adjoining Lot or Land: A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land. (See Abut)

Adult Related Use: An establishment consisting of, including, or having the characteristics of any or all of the following:

1. Adult Bookstore, Newsstand, Video Store, or Combination: An establishment having more than 40 percent of its stock-in-trade, floor area, or display area used for the sale or rental of books, magazines, publications, tapes, or films that are distinguished or characterized by the emphasis on sexually oriented material depicting, describing, or relating to sexual activities or anatomical genital areas.
2. Sex Shop: Any establishment offering, for sale or rent, items from any two of the following categories: sexually oriented books, magazines, and videos; leather goods marketed or presented in a context to suggest their use for sexual activities; sexually oriented toys and novelties; or video viewing booths; or an establishment that advertises or holds itself out in any forum as a sexually oriented business.
3. Video Viewing Booths: Often referred to a peep shows and characterized by small private booths rented to individuals to view sexually explicit films or tapes
4. Adult Motion Picture Theater: A building used for presenting films distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
5. Adult Cabaret: An establishment, either with or without a liquor license, offering sexually oriented live entertainment, which may include topless and go-go dancers, strippers, or male or female impersonators.

Age Restricted Housing Community: A community comprised of any combination of permitted residential dwelling types that qualifies as “housing for older persons” pursuant to the Fair Housing Act, 423 U.S.C. 3601 § et seq. (as amended by the Housing for Older Persons Act), or subsequent amendments thereto. As of the date of enactment of this definition, by way of an example, “housing for older persons” under the Act and allowed by this Chapter includes:

1. A residential housing community intended for, and solely occupied by, persons 62 years of age or older; or
2. A residential housing community intended and operated for occupancy by persons 55 years of age or older, with the exception of: i) a spouse under 55 years old if married to a resident 55 years or older; ii) the handicapped dependents of a resident who is 55 years or older regardless of age; and iii) a child over 18 years old who is not enrolled in a secondary level school. In these communities, at least 80% of the occupied units shall be occupied by at least one person who is 55 years old or greater; the community must publish and adhere to guidelines to comply with the

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Act; and the community shall comply with the rules issued by the U.S. Secretary of Housing for verification of occupancy.

Agricultural Marketing Enterprise: An accessory use to an agricultural operation for the purpose of directly marketing agricultural products produced by the agricultural operation in their natural or manufactured state. The term shall include any on-farm processing, packaging or other activity performed in the course of direct marketing of the farmer's agricultural products. Examples include but are not limited to farm stands, creameries, pick-your-own operations, community supported agriculture (CSA), Christmas tree farm, etc.

Agricultural Operation: 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 aquacultural 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.

Agriculture: The use of land which shall include, but not be limited to, the tilling of the soil, the raising of crops, horticulture, apiculture, floriculture, viticulture and gardening. The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Agritourism Enterprise: An accessory use to an agricultural operation at which activities are offered to the public or to invited groups for the purpose of recreation, entertainment, education or active involvement in the agricultural operation. These activities must be incidental to the primary operation on the site. These activities may include a fee for participants. Examples include but are not limited to hay rides, corn mazes, farm tours, celebratory gatherings such as weddings, educational exhibits, agriculturally related events, recreation related tours and activities, etc.

Aircraft: Defined in Section 1102.

Aircraft, Ultralight: A vehicle that has only one seat, is used only for recreational or sport flying, does not have a U.S. or foreign airworthiness certificate, weighs less than 155 pounds if unpowered, and weighs less than 254 pounds if powered. Regulation of ultralight aircraft is covered by the Code of Federal Regulations Title 14 (Federal Aviation Regulations) Part 103 (or 14 CFR Part 103).

Airport: Defined in Section 1102.

Airport Elevation: Defined in Section 1102.

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Airport Hazard: Defined in Section 1102.

Airport Hazard Area: Defined in Section 1102.

Airport, Private (Private Airstrip): Defined in Section 1102.

Airport, Public: Defined in Section 1102.

Airport, Ultralight: A place where ultralight aircraft can land and take off.

Aisle (Parking Aisle): The traveled way by which cars enter and depart parking spaces.

Alley: A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Alternative Fuels: Known as non-conventional or advanced fuels, alternative fuels are any materials or substances that can be used as fuels, other than conventional fuels like fossil fuels (petroleum (oil), coal, and natural gas), nuclear materials, or artificial radioisotope fuels that are made in nuclear reactors. Some well-known alternative fuels include biodiesel, bio alcohol (methanol, ethanol, butanol), chemically stored electricity (batteries and fuel cells), hydrogen, non-fossil methane, non-fossil natural gas, vegetable oil, propane, and other biomass sources.

Amendment: A change in use in any district or change in zoning district, which includes revisions to the zoning text and/or the official zoning map.

Animal: A living organism other than a plant or bacterium, including fish, amphibians, birds, and mammals, excluding humans.

Animal, Domestic: Any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Animal Feeding Operation (AFO): A facility where animals have been, are/or will be stabled or confined and fed or maintained for a total of 45 days or more in any twelve-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Animal Shelter: A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society (such as the Society for the Prevention of Cruelty to Animals), or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

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Animal Unit (AU): A standard unit used in calculating the relative grazing impact of different kinds and classes of livestock. One animal unit is defined as a 1,000 lb (450 kg) beef cow with or without a nursing calf, with a daily dry matter forage requirement of 26 lb (11.8 kg)

Applicant: A landowner or developer (as herein defined) who has filed an application for development including his personal representatives, heirs, successors and assigns.

Application: The application form and all accompanying documents and exhibits required of an applicant by an approving authority for review and approval purposes.

Approach Surface: Defined in Section 1102.

Approach, Transitional, Horizontal, and Conical Surface Zones: Defined in Section 1102.

Architecturally Compatible (or Compatible Design): The visual relationship between adjacent and nearby buildings and the immediate streetscape, in terms of a consistency of materials, colors, building elements, building mass, and other constructed elements of the urban environment, such that abrupt or severe differences are avoided.

Art Gallery: A room or building for the display or sale of works of art.

Assisted Living Facility (Personal Care Facility): Coordinated and centrally managed housing facility that includes self-contained units designed to provide a supportive environment and to accommodate a relatively independent lifestyle. Such a development provides supportive services, such as meals, transportation, housekeeping, assistance with personal care tasks, and organized social activities for residents and their invited guests. Such a use primarily serves persons 55 and older, persons with physical handicaps and/or the developmentally disabled who do not require the services of a nursing home facility. Assisted Living Facilities are licensed as Personal Care Homes by the Commonwealth of Pennsylvania.

Auction House: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

Automotive Fueling Station: A facility that sells fuel and engine lubricants for motor vehicles.

Automotive Repair Garage: Any building, land area, or other premises, or portion thereof, used for automobile repair services.

Automobile Repair Services: General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, welding, and painting service.

Automobile Service Station: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Awning: Defined in Section 903.

Awning Sign: Defined in Section 903.

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**Basement:** A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and a half feet.

**Bed and Breakfast Inn:** An owner-occupied dwelling where overnight accommodations and a morning meal are provided to transients for compensation.

**Berm:** A mound of earth or the act of pushing earth into a mound.

**Billboard:** Defined in Section 903.

**Board:** The Zoning Hearing Board of North East Township, Erie County, Pennsylvania.

**Boarding House (Including "Rooming House"):** A residential use in which: (a) room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or (b) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of a motel, dormitory, life care center, personal care center, bed and breakfast inn, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boarding house shall primarily serve persons residing on-site for 5 or more consecutive days.

**Boarding Stable:** A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation.

**Board of Supervisors:** The Board of Supervisors, North East Township, Erie County, Pennsylvania.

**Brewery:** A facility that holds a license to manufacture, store and distribute malt or brewed beverages as regulated by Title 47, the Pennsylvania Liquor Code, as amended.

**Brew Pub:** A restaurant or bar in conjunction with a facility in which malt or brewed beverages are produced on site, and which are intended for consumption on the premises and/or on-site retail purchase only.

**Buffer Area or Buffer Strip:** A strip of land consisting of landscaped areas, fences, walls, berms or combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

**Buffer Planting Strip:** A strip or area of land within a required buffer area which is landscaped with trees and shrubs in accordance with the requirements of this ordinance.

**Buffer Yard:** See Buffer Area

**Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

**Building, Accessory:** See "Accessory Building".

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Building, Detached: A building surrounded by open space on the same lot.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Coverage: The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total gross lot area.

Building Footprint: The area encompassed by a building's outer wall at ground level.

Building Frontage: Defined in Section 903.

Building Height: The vertical distance from the finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Inspector: An individual designated by the appointing authority to enforce the provisions of the building code. Includes code enforcement officer or Zoning Administrator.

Building Line: A line parallel to the street right-of-way line touching that part of a building closest to the street.

Building, Non-Conforming: See Non-Conforming Structure or Building.

Building Permit: Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.

Building Setback Line: See Setback Line.

Business Services: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research, development, and testing; photo finishing; and personal supply services.

Building Sign: Defined in Section 903.

Caliper: Tree trunk diameter measured in inches at six (6") inches above ground level for trees four (4") inches or less in diameter or twelve (12") inches above ground level for larger trees.

Camper: Any individual who occupies a campsite or otherwise assumes charge of, or is placed in charge of, a campsite.

Campground: A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

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Camping Unit: Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

Campsite: Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.

Canopy: Defined in Section 903.

Canopy Sign: Defined in Section 903.

Cartway: The paved area of a street between the curbs, including travel and parking lanes and acceleration and deceleration lanes, but not including shoulders, curbs, sidewalks, or swales.

Car Wash Facility: Any building or premises used for washing motor vehicles.

Cemetery: Property used for the interment of the dead.

Certificate of Occupancy: A certificate issued by a code administrator allowing occupancy of a building or structure under the Uniform Construction Code (UCC).

Changeable Copy Sign: Defined in Section 903.

Change of Use: Any use that substantially differs from the previous use of a building or land.

Child Day Care Center or Home: See "Day Care Services for Children"

Church: See House of Worship.

Clear-Sight Triangle: An area of unobstructed vision at street intersections defined by the center lines of the streets and by a line of sight between points on their center lines at a given distance from the intersection of the center lines. Within this clear-sight triangle nothing is to be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Clinic: An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where such examination and treatment generally require a stay of less than 24 hours.

Club: An establishment operated by an organization for social, recreational, educational and/or fraternal purposes, but open only to members and their guests and not the general public.

Collocation (Collocate): The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the municipality.

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Commercial Message: Defined in Section 903.

Commercial Use: Activity involving the sale of goods or services carried out for profit.

Commercial Recreation Facility: Includes all indoor and/or outdoor recreation facilities which are operated as a business and where the facility is available to the general public for a user fee or where the facility (facilities) is available on a membership basis.

Commercial Recreation, Indoor – a facility that offers various indoor recreational opportunities for its patrons (paying or non-paying) including ice skating, billiards, bowling, video games, and similar pursuits.

Commercial Recreation, Outdoor – a facility which offers various outdoor or spectator opportunities for its patrons (paying or non-paying) including go-cart raceways, miniature golf, concerts and music parks, and similar pursuits.

Common Facilities: Defined in Section 1201.

Communications Antenna (Antenna): Any device used for the 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 and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include Wi-Fi antennas which are designed for personal or private use; private residence mounted satellite dishes or television antennas; or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

Communications Tower: A structure, other than a building, such as a monopole, self-supporting, or guyed tower, designed and used to support communications antennas.

Community Association: Defined in Section 1201.

Community Center: A facility used for recreational, social, educational, and cultural activities.

Compatible Land Use: A use of land and/or building(s) that, in terms of development intensity, building coverage, design, bulk and occupancy, traffic generation, parking requirements, access and circulation, site improvements, and public facilities and service demands, is consistent with and similar to neighboring uses and does not adversely affect the quality of life of persons in surrounding or nearby buildings.

Comprehensive Plan: The official public document prepared in accordance with the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.O. 805, No. 247, as amended and reenacted, consisting of maps, charts and textual material, that constitutes decisions about the physical and social development of North East Township, as amended from time to time.

Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that: (a) confines more than 1,000 animal units (AU); or (b) confines between 301 to 1,000 AU and discharges pollutants into waters of the United States through a man-made ditch, flushing system or similar man-made device, or directly into waters of the United States that originate outside of and pass over, across or through the facility or

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otherwise come into direct contact with the animals confined in the operation. Animal quantities equivalent to 1,000 AU are 1,000 slaughter and feeder cattle; 700 mature dairy cattle; 2,500 swine each weighing more than 25 kilograms (55 pounds); 30,000 laying hens or broilers (if a facility uses a liquid manure system); and 100,000 laying hens or broilers (if a facility uses continuous overflow watering).

Conditional Use: A use permitted (and approved by the governing body) in a particular zoning district when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance.

Condominium: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

Condominium Association: Defined in Section 1201.

Conical Surface: Defined in Section 1102.

Conservancy Lot: Defined in Section 1201.

Conservation Areas, Primary: Defined in Section 1201.

Conservation Areas, Secondary: Defined in Section 1201.

Conservation Subdivision (Conservation Subdivision Design): Defined in Section 1201.

Constrained Land: Defined in Section 1201.

Conservancy Lot: Defined in Section 1201.

Conservation Areas, Primary: Defined in Section 1201.

Conservation Areas, Secondary: Defined in Section 1201.

Conservation Subdivision (Conservation Subdivision Design): Defined in Section 1201.

Constrained Land: Defined in Section 1201.

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

Contiguous: Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous. To physically touch or border upon, or to share a common property line, but not overlap.

Continuing Care Retirement Community: A planned community designed to provide a range of senior housing options, specialized services, support, and security, and three levels of health care including independent living, assisted living, and long-term and short-term skilled nursing care together with an array of ancillary facilities intended to meet the social, recreational, cultural, and religious needs of the residents.

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Contracting Operation: An operation engaged in a trade or activity related to building maintenance and/or construction, such as painting, electrical work, carpentry, plumbing, heating, air-conditioning, roofing, and similar activities.

Convenience Store: A retail establishment with primary emphasis on quick purchases from a limited variety of consumable goods, typically gasoline, snacks, food and related sundries. These are typically located along high traffic roads and have extended business hours, with most products consumed off the premises.

County Planning Commission: The Erie County Planning Commission.

Coverage, Building: The ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.

Coverage, Lot: That part of the lot that is covered by impervious surfaces.

Cul-De-Sac: See Street, Cul-De-Sac.

Cultural Facilities: Establishments that document the social and religious structures and intellectual and artistic manifestations that characterize a society and include museums, art galleries, and botanical and zoological gardens of a natural, historic, educational, or cultural interest.

Curb: A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care Center, Adult: A use providing supervised care and assistance primarily to persons who are over age 60 and/or intellectually disabled and/or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimer's disease, mental abilities or intellectual disability. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care Services for Children: - provides out-of-home care for part of a 24-hour day to children under sixteen (16) years of age, excluding care provided by relatives and excluding day care furnished in places of worship during religious services. This Chapter identifies three levels of Day Care Services for Children:

- a. Child Day Care Home (Family): A home other than the child's own home, operated for profit or not-for-profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator. See Title 55, Chapter 3290 of the PA Code.
- b. Child Day Care Home (Group): the premises in which care is provided at one time for more than six (6) but fewer than sixteen (16) older school-age level children, or more than six (6) but fewer than thirteen (13) children of another age level who are unrelated to the operator.

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The term includes a facility located in a residence or another premises. See Title 55, Chapter 3280 of the PA Code.

- c. Child Day Care Center: A premises in which care is provided at any one time for seven or more children unrelated to the operator. See Title 55, Chapter 3270 of the PA Code.

Childcare for less than four (4) children will not be considered as Day Care Services.

dB(A): the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the fast meter response, as specified in American National Standards Institute Standard S 1.4.

dB(C): the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the C-level weighting scale and the fast meter response, as specified in American National Standards Institute Standard S 1.4.

Density: The number of families, individuals, dwelling units, households, or housing structures per unit of land.

Department of Environmental Protection (DEP): The Pennsylvania Department of Environmental Protection, its bureaus, divisions, departments and/or agencies, as may be established, or such Department or Departments as may succeed it.

Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such lands.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

Development Plan: The provisions for a planned development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open-space and public facilities.

Digital Display: Defined in Section 903.

Directional Sign: Defined in Section 903.

Distillery: A place or establishment where alcoholic drinks (such as whiskey) are produced by the process of distillation.

Distillery, Micro (or Micro-distillery): A small, often boutique-style distillery established to produce beverage grade spirit alcohol in relatively small quantities, usually done in single batches (as opposed to larger distillers' continuous distilling process), and which is intended for on-site retail purchase only.

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Distribution Center: An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

District: A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

District, Residential: For purposes of this ordinance, Residential Districts include the following zoning districts: R-1, Rural Residential District; and R-2, Suburban Residential District.

District, Non-Residential: For purposes of this ordinance, Non-Residential Districts are all zoning districts that are not Residential Districts.

Dog Kennel – See Kennel.

Dormitory: A building used as group living quarters for a student body or religious order as an accessory use to a college, university, boarding school, convent, monastery, or similar institutional use.

Driveway: A private roadway providing access to a street or highway.

Drive-Through Facility: A facility, accessory to a commercial use including but not limited to financial institutions, restaurants and drug stores that permits customers to receive services or obtain goods while remaining in their motor vehicles.

Dry Cleaning and Laundry Services: A business establishment primarily engaged in laundering, dry cleaning, and pressing apparel and linens of all types. These establishments may also provide clothing repair and alteration services. For purposes of this Chapter, the term is used to refer to an establishment that renders services primarily to the general public. See also, definition of Laundry and/or Dry Cleaning Establishment (Industrial).

Dump: A land site used primarily for the disposal by dumping, burial, burning, or other means and for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap, or discarded material of any kind.

Dumpster: An exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle.

Duplex: A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof. See Dwelling, Two-Family.

Dust-free Surface - A surface of asphalt paving, concrete, brick, cobblestone (or similar pavers), crushed limestone, gravel or similar stone material installed and compacted as needed. Dirt, clay and similar material will not be accepted as a dust-free surface.

Dwelling: A structure or portion thereof that is used exclusively for human habitation. For purposes of this chapter, the term does not include hotels, motels or nursing homes.

Dwelling, Multiple-Family (Multi-Family Dwelling): A building containing three or more dwelling units.

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Dwelling, Single-Family Detached (Single-Family Detached Dwelling): A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Detached: A dwelling that is not attached to any other dwelling by any means.

Dwelling, Two-Family: A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling, Single-Family: A one-family dwelling.

Dwelling, Single-Family Attached (Single-Family Attached Dwelling): A one-family dwelling unit that is attached to two or more such units in which each unit has its own access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. This definition includes town houses.

Dwelling, Single-Family Detached (Single-Family Detached Dwelling): A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Town House: A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Dwelling Unit: One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Easement: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Emergency Medical Treatment Facility: Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing emergency health service to people on an outpatient basis.

Emergency Services: Emergency services shall include fire departments, police services, ambulance and emergency response services.

Engineer, Municipal: A registered professional engineer in Pennsylvania designated by the municipality to perform the duties of engineer as herein specified.

Enlargement: An increase in the size of an existing structure or use, including the physical size of the property, building, parking, and other improvements.

Equine Animal: An animal of or belonging to the family Equidae, which includes horses, asses and zebras.

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Erosion: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice, and gravity.

Essential Service, Class 1: The erection, construction, alteration or maintenance by public utilities or municipal departments, authorities, or commissions of: underground gas, underground or above ground electrical, telephone, cable television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith. Essential Services does not include wireless communications facilities and/or antennae.

Essential Service, Class 2: The erection, construction, alteration or maintenance by public utilities or municipal departments, authorities, or commissions of building or structures necessary for the furnishing of adequate services for the public health, safety and general welfare such as water and sewer pump stations, water storage towers, electric substations, natural gas regulator stations, telephone substations or similar type structures, but excluding office buildings, the outside storage of equipment or maintenance depots, wireless communications facilities and/or antennae.

Establishment: An economic unit where business is conducted or services or industrial operations are performed.

Excavation: Any act by which earth, sand, gravel, rock or any other similar materials is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed. It shall include the conditions resulting therefrom.

Existing Use: The use of a lot or structure as of the effective date of this ordinance.

Exterior Wall: Any wall that defines the exterior boundaries of a building or structure.

FAA: Defined in Section 1102.

Facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Facility: A place where an activity occurs.

Facility Owner: The entity or entities having an equity interest in the facility, including their respective successors and assigns.

Farm or Farmland: A parcel of land used for agricultural purposes.

Farm Building or Farm Structure: Any building or structure used for agricultural purposes.

Farmer's Market: The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural product, occurring in a predesignated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

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Farm Occupation: An accessory use to an agricultural operation at which goods and/or services are rendered in support of local agricultural operations or to supplement on-farm income. Examples include but are not limited to tractor repair services, custom cabinetry, welding shop, internet-based business, repair services, catering, home occupations, traditional trade businesses, etc.

Farm Stand (Roadside Stand): A structure for the display and sale of farm products primarily grown on the property upon which the stand is located.

Farm Stay: Cabin-style lodging (either fixed or movable) that is available to guests for a “farm stay” of no more than 15 consecutive days (or 30 days in a calendar year) while attending and participating in one or more agritourism activities on the same property offered by the property owner/operator.

Family: One or more persons related by blood, marriage, legal guardianship, licensed or court-appointed foster care or legal adoption, including any domestic servants or gratuitous guests thereof, who maintain one common household and reside in one dwelling unit; or no more than three persons who are not related to each other by blood, marriage, legal guardianship, licensed or court-appointed foster care, or legal adoption; or any number of persons possessing a handicap within the meaning of the Fair Housing Act (42 USC Section 3602(h), or successor legislation) who reside in one dwelling unit and live and cook together as a single housekeeping unit.

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

Fill: Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans.

Financial Institution or Bank: An establishment primarily involved with monetary, not material, transactions and that has routine interactions with the public.

Finished Grade: See Grade, Finished.

Flea Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floor Area, Gross (GFA): The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet 6 inches.

Floor Area, Habitable: The gross floor area of a dwelling which is used or designed for living, sleeping, eating or cooking, but not including garages, enclosed porches, and unfinished basements or attics.

Floor Area, Net: The total of all floor areas of a building, excluding stair-wells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

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Forestry: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

Fraternal Organization: A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements.

Freestanding Sign: Defined in Section 903.

Front Lot Line: See Lot Line, Front.

Front Yard: See Yard, Front.

Frontage: That side of a lot abutting on a street; the front lot line.

Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

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

Garage Sale: This term is used to broadly define a temporary sales event of common household items located at a residential home. The term includes, but is not limited to, sales events referred to as garage, yard, porch, or apartment sales.

Garden Center: A commercial operation offering for retail sale plants, flowers, lawn and garden supplies and other items, and which may include a nursery or greenhouse, and may also include the sale of bulk stone, bark and other materials.

Gas Station / Gasoline Service Station: See "Automobile Service Station".

General Advertising for Hire: Defined in Section 903.

General Public: Any and all individuals in ordinary society.

Glare: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Golf Course: A tract of land laid out for at least nine holes for playing the game of golf, and that may also include a clubhouse, dining and snack bars, pro shop, and practice facilities.

Governing Body: The Board of Supervisors of North East Township, Erie County, Pennsylvania.

Government/Regulatory Sign: Defined in Section 903.

Grade: (1) The average elevation of the land around a building; (2) the percent of rise or descent of a sloping surface.

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Grade, Finished: The elevation of the land surface of a site after completion of all site preparation work.

Gravel Pit: An open-pit mine for the extraction of gravel.

Greenhouse: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or for personal enjoyment.

Greenway Land: Defined in Section 1201.

Ground Cover: Low growing plant materials planted in a manner to provide continuous plant cover of the ground surface and other low plant materials are included. Non-plant ground cover may also include bark or wood chips, gravel, and stone provided they are maintained as a continuous pervious cover.

Ground Sign: Defined in Section 903.

Group Quarters: A place where seven (7) or more people live or stay, in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents. This is not a typical household-type living arrangement. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. People living in a group quarters are usually not related to each other. Group quarters include such places as boarding houses, college residence halls, fraternity and sorority houses, workers' dormitories, and facilities for people experiencing homelessness. For purposes of this ordinance, group quarters shall exclude hotels, motels, assisted living facilities, nursing homes, prisons or correctional institutions, treatment centers, and pre-release detention facilities.

Growing Greener: Defined in Section 1201.

Half-Way House (Halfway House): A noninstitutionalized living arrangement with treatment and support services for persons with substance abuse problems or for inmates and parolees approaching parole release date or release from a corrections institution. The halfway house (community corrections center) operates under the rules and regulations of the Pennsylvania Department of Health or Department of Corrections or similar authorities. The residents are provided full-time supervision and counseling on employment, vocations, finances and community living.

Hazardous Material: Materials which are classified by the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection as having the potential to damage health or impair safety. Hazardous materials include but are not limited to inorganic mineral acids or sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, arsenic and their common salts, lead, coal tar acids, such as phenols and cresols and their salts, petroleum products, and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks and large containers, located in flood prone areas.

Hazardous Waste: Any substance classified by the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection as having the potential to damage health or impair

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safety, including garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution facility, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations, and from community activities, or any combination of the above, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or,
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(NOTE: "Hazardous Waste" shall also include any added components from the Solid Waste Management Act of July 7, 1980, P.L. 380, No. 97, as amended).

Heavy Equipment or Heavy Machinery: Heavy-duty vehicles, specially designed for executing construction tasks, most frequently ones involving earthwork operations or other large construction tasks.

Height: The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.

Heliport: An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Helistop: A heliport but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Home Based Business or Occupation: A business, occupation or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, but which does not meet all the standards of a no-impact home based business. See Section 1002.27 for criteria.

Home Based Business (No Impact): - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. See Section 1002.28 for criteria.

Home Gardening: The non-commercial, cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining a residential dwelling. For purposes of this ordinance, home gardening is an accessory use considered to be customary to a residential use.

Homeowners Association: Defined in Section 1201.

Horizontal Surface: Defined in Section 1102.

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Hospital: A building or part thereof used for medical, psychiatric, obstetrical, or surgical care on a twenty-four-hour basis. The term “hospital” shall include facilities used for medical research and training for health-care professions, general hospitals, mental hospitals, tuberculosis hospitals, children’s hospitals, and any such other facilities which provide inpatient care. The term “hospital” shall not include any facility in which is conducted the housing of the criminally insane or provides treatment for persons actively charged with or serving a sentence after being convicted of a felony. A hospital shall be licensed as such by the Commonwealth of Pennsylvania.

Hotel: A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

Household: Persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

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

Hub Height: Defined in Section 1303.

Illumination: Defined in Section 903.

Illuminated Sign: Defined in Section 903.

Impervious Surface (Impervious Area): A surface that prevents the infiltration of water into the ground. Impervious surface (or areas) includes, but is not limited to, buildings and similar structures, patios, sidewalks, and parking or driveway areas.

Improvements: Those physical additions, installations and changes required to render land suitable for the use intended, including, but not limited to, grading, paving, curbing, streetlights and signs, fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and other public utilities and street shade trees, and improvements to existing water courses.

Incidental: Subordinate and minor in significance and bearing a reasonable relationship to the primary use.

Incidental Sign: Defined in Section 903.

Incidental Window Sign: Defined in Section 903.

Industrial: Relating to or characterized by industry.

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Industrial Park: A tract of land that is planned, developed, and operated as a coordinated and integrated facility for a number of separate industrial uses, with consideration for circulation, parking, signage, utility needs, aesthetics, and compatibility.

Industry: The manufacturing, compounding, processing, assembly, or treatment of materials, articles, or merchandise.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in the storage of, or manufacturing processes that potentially involve, hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the basic processing and 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.

Inoperable Motor Vehicle: A vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that shall be without a valid current registration plate or valid current certificate of inspection, or any vehicle in a major or severe state of disrepair.

Institutional Use: A nonprofit, religious, or public use, such as a religious building, library, public or private school, hospital, or government-owned or-operated building, structure, or land used for public purpose.

Junk: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

Junkyard: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk

Junk Vehicle: Includes any vehicle or trailer that meets any of the following conditions:

1. Cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs,
2. Cannot be towed, in regards to a trailer designed to be towed,
3. Has been separated from its axles, engine, body or chassis, and/or
4. Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

Kennel: An establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. For purposes of this Chapter, a use meeting the definition of "pet grooming establishment" is not intended to be a "kennel".

Laboratory: A building, part of a building, or other place equipped to conduct scientific experiments, tests, investigations, etc., or to manufacture chemicals, medicines, or the like.

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Laboratory, Research: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

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

Larger Than Utility Runway: Defined in Section 1102.

Laundromat: An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

Laundry and/or Dry Cleaning Establishment (Industrial): A business establishment equipped with large-scale clothes washing and dry cleaning equipment, and primarily engaged in rendering services to commercial, industrial or institutional establishments rather than the general public.

Lease: A contractual agreement for the use of lands, structures, buildings, or parts thereof for a fixed time and consideration.

Legibility: Defined in Section 903.

Library: A place in which literary, musical, artistic or reference material (such as books, manuscripts, recordings or films) are kept for use but not for sale.

Livestock: Any wild or domestic animal of the bovine, swine or sheep family.

Loading Space: An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

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

Lot Area: The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, Corner: A lot at the junction of and abutting on two or more intersecting streets or private roads.

Lot, Double Frontage: See Lot, Through

Lot, Flag: A lot that has an L-shaped or flag configuration with access to the bulk of the lot provided by a narrow corridor from the adjoining public right-of-way.

Lot, Improved: A lot with buildings or structures.

Lot, Interior: A lot other than a corner lot.

Lot, Minimum Area: The smallest lot area established by the zoning ordinance in a particular district.

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Lot, Nonconforming: A lot the area or dimension of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Lot, Reverse Frontage: A through lot with frontage on two parallel streets with vehicular access restricted to only one of the streets.

Lot, Through: A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

Lot Depth: The average distance measured from the front lot line to the rear lot line.

Lot Frontage: The length of the front lot line measured at the street right-of-way.

Lot Line: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot Line, Front: The lot line separating a lot from a street right-of-way.

Lot Line, Rear: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: A lot that exists as shown or described on a plat or deed in the records of the Recorder of Deeds of the County of Erie, Commonwealth of Pennsylvania.

Lot Width: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Malt or Brewed Beverages: Any beer, lager beer, ale, porter or similar fermented malt beverage containing one-half of one per centum or more of alcohol by volume, by whatever name such beverage may be called, and shall also mean alcoholic cider and mead.

Manual Changeable Copy Sign: Defined in Section 903.

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.

Manufacturing, Heavy: The assembly, fabrication, production or processing of goods and materials using processes that have the potential to create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place; or the processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials; or that necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. For purposes of

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this ordinance, heavy manufacturing shall also include those manufacturing processes which do not meet the definition of light manufacturing.

Manufacturing, Light: The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing does not exceed 25 percent of the floor area of all buildings on the lot. This shall not include uses that constitute "heavy" manufacturing", resource extraction, or recycling and salvage operations.

Manufactured Home: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401).

Marquee: Defined in Section 903.

Marquee Sign: Defined in Section 903.

Massage Therapy: An establishment whose business emphasis is the administration of non-sexually-oriented massage to patrons by employees.

Medical Marijuana: Marijuana for a certified medical use as legally permitted by the Commonwealth of Pennsylvania Medical Marijuana Act (PA Act 16 of 2016).

Medical Marijuana Dispensary: A dispensary which holds a permit issued by the Pennsylvania Department of Health to dispense medical marijuana.

Medical Marijuana Grower/Processor: A grower/processor which holds a permit issued by the Pennsylvania Department of Health to grow and process medical marijuana.

Memorial Sign: Defined in Section 903.

Message Center Sign: Defined in Section 903.

Message Sequencing: Defined in Section 903.

Mineral Extraction: The removal or separation of mineral resources, by any means, from the surface or sub-surface of land or water. Mineral extraction includes, but is not limited to: surface mining for gravel, sand or coal, oil and gas drilling, and the removal of topsoil, clay, shale or peat.

Mineral Extraction, Surface Mining (Surface Mining): The extraction of minerals from the earth, from waste or stockpiles or from pits or from banks by removing the strata or material that overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with surface or underground mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction and activities related thereto; but it does not

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include those mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings. The term does not include any of the following:

- (1) The extraction of minerals by a landowner for his own noncommercial use from land owned or leased by him.
- (2) The extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes of the Pennsylvania Department of Transportation or the extraction of minerals pursuant to construction contracts with the department if the work is performed under a bond, contract and specifications that substantially provide for and require reclamation of the area affected in the manner provided by the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, P.L. 10993 No. 219, as amended.
- (3) The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.
- (4) Those dredging operations that are carried out in the rivers and streams of the Commonwealth of Pennsylvania and in Lake Erie.
- (5) The extraction, handling, processing or storing of minerals from any building construction excavation on the site of the construction where the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals.

Minerals: any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mineral Processing: The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants, manufacture of concrete and clay products, or any similar cold or hot process. Mineral processing shall be considered manufacturing and industry for the purposes of this Chapter.

Mini-Storage Warehouses: See Self-Storage Facility

Mixed Use, Residential and Commercial Development: The development of a tract of land, building, or structure with a variety of complementary and integrated residential and commercial uses, such as, but not limited to, residential, office, retail, public, or entertainment.

Mobile Home: A transportable, single-family dwelling intended for permanent occupancy, contained in one (1) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

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Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

Monopole: A wireless communications facility or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connect appurtenances.

Mortuary: A place for the storage of human bodies prior to their burial or cremation.

Motel: A building or group of buildings whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances, and designed for temporary occupancy by primarily transient automobile travelers and providing for accessory off-street parking facilities.

Motor Vehicle: See Vehicle, Motor

Multiple-Family Dwelling - see Dwelling, Multiple-Family.

Municipal Building or Structure: A building or structure owned and operated by the municipality to provide a governmental service to the public.

Municipality: The Township of North East, Erie County, Pennsylvania.

Mural: Defined in Section 903.

Museum: A building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited.

Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow the natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that are/is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

Natural Gas, Oil and Gas Development: Uses that include the process of perforating the earth's surface and rock layers to extract fossil fuels, natural gas or oil, for energy production and all associated equipment, structures and construction at the drilling site including the well pad, access roads, hydraulic fracturing, production, pipelines, tanks, meters, and temporary work crew and supervisor trailers for exploration and production at a single well pad, including multiple wells at a single well pad, and all subsequent site reclamation activities which follow the production phase. The term does not include Natural Gas Compressor Stations or Natural Gas Processing Plants.

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New Use: Any new activity or use of land in a lot or parcel that was not occurring as of the effective date of this ordinance.

Nightclub: Any building used for on-site consumption of alcoholic or nonalcoholic beverages and in which music, dancing, or entertainment is conducted. Nightclub includes an "Under 21" club which features entertainment.

Noise: (1) Any undesired audible sound; (2) any sound that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

Non-Commercial Keeping of Poultry, Livestock and/or Equine Animals: The keeping of poultry, livestock and/or equine animals for personal use. The use is permitted only as an accessory use, and only in zoning districts specifically identified by this ordinance. See Section 1002.05 for criteria.

Non-Commercial Message: Defined in Section 903.

Nonconforming Sign: Defined in Section 903.

Nonconforming Building: See "Nonconforming Structure".

Nonconforming Lot: See "Lot, Nonconforming"

Nonconforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use: A use, whether of land or structure, which does not comply with the applicable use provisions of this Ordinance or amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

Non-Participating Landowner: Defined in Section 1403.

Non-precision Instrument Runway: Defined in Section 1102.

Non-Residential District: See District, Non-Residential

Non-Tower Wireless Communications Facilities (Non-Tower WCF): See Wireless Communications Facilities, Non-Tower.

Normal Farming Operations: The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animals and the disposal of manure, other

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agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Nursery, Plant or Horticulture: Any lot or parcel of land used to cultivate, propagate, grow and/or sell trees, shrubs, vines, and other plants including the buildings, structures, and equipment customarily incidental and accessory to the primary use.

Nursing Home: A facility to give long-term skilled care to geriatric or handicapped patients and licensed as such a facility by the Commonwealth of Pennsylvania.

Obstruction: Defined in Section 1102.

Occupancy or Occupied: (1) The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building; (2) holding real property by being in possession.

Occupied Building: Defined in Section 1403.

Offsite Commercial Message: Defined in Section 903.

Office: A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

Official Traffic Sign: Defined in Section 903.

Off-Street Loading: Designated areas located adjacent to buildings where trucks may load and unload cargo, and that is not located on a dedicated street right-of-way.

Off-Street Parking: A temporary storage area (surface or structure) for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way, and is located upon the same lot as a principal use or, in the case of joint parking, within close proximity.

Onsite or On-Premises Commercial Message: Defined in Section 903.

On-Premises Sign: Defined in Section 903.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designed, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests.

Operator: (1) The entity responsible for the day-to-day operation and maintenance of a facility or establishment. (2) A person or company that engages in or runs a business or enterprise.

Outdoor Lighting: An illumination source outside any building, including but not limited to an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it. Lighting fixtures underneath a roof of an open-sided building, including but not limited to storage sheds, canopies and gas station marquees over gas pumps, are deemed to be "outdoor lighting."

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Outdoor Storage: The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

Outdoor Wood-fired Boiler: Also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, water stoves, etc. A fuel-burning device:

1. Designed to burn clean wood or other approved solid fuels;
2. That the manufacturer specifies for outdoor installation or for installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds; and
3. Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Owner: See Landowner.

Parapet: The extension of the main walls of a building above the roof level.

Parcel: A lot, plot or tract of land designated by any legally recorded or approved means as a single unit. The term includes, but is not limited to, tax parcels, lots or deeded areas.

Park: A tract of land, designated and used by the public for active and passive recreation.

Parking Bay: An area of a parking lot consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

Parking Lot: An off-street, ground-level open area that provides temporary storage for motor vehicles.

Parking Space: The space within a building, or on a lot or parking lot, for the parking or storage of one (1) automobile.

Party Wall or Common Wall: A common shared wall between two separate structures, buildings, or dwelling units.

Passenger Terminal: A transportation facility located on a transportation line, where people transfer from one (1) mode of vehicular transportation to another or between carriers within the same mode. Such carriers shall have regularly scheduled routes, and may include vans, trains, ships, tour buses or boats, or other types of transportation. Passenger terminals may include ticket counters, waiting areas, management offices, baggage handling facilities, and shops and restaurants. Metro street bus stops are not included in this definition.

Performance Standards: A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

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Permanent Sign: Defined in Section 903.

Permit: Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person: A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

Personal Services Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Service activities shall include and be similar to barbershops; beauty salons; health spas; massage therapy; photographic studios; radio and television repair; repair shops for home appliances and tools, bicycles, guns, locks, shoes and watches; tailor and dressmaking shops; and pet grooming with no overnight boarding. Personal service establishments shall not be construed to be adult related uses as defined herein.

Pervious Surface (Pervious Area): A surface that allows the infiltration of water into the ground.

Pet: A domestic or tamed animal or bird kept for companionship or pleasure and treated with care and affection.

Pet Grooming Establishment: A business activity that is operated and conducted within an enclosed premises and includes and is limited to the grooming and/or washing of pets and/or domestic animals and which shall not include any training or boarding of animals and/or any outdoor activities.

Planning Code: The Pennsylvania Municipalities Planning Code, Act 247 of 1968, P.L. 805, No. 247, as reenacted and amended.

Planning Commission: The Planning Commission of North East Township, Erie County, Pennsylvania.

Playground: An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

Pole Sign: Defined in Section 903.

Poultry: Domesticated fowl collectively, especially those valued for their meat and eggs, such as chickens, turkeys, ducks, geese, and guinea fowl.

Precision Instrument Runway: Defined in Section 1102.

Premises: A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

Primary Conservation Area: Defined in Section 1201.

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Primary Surface: Defined in Section 1102.

Principal Building: See Building, Principal

Principal Solar Energy System (PSES): Defined in Section 1303.

Principal Use: The primary or predominant use of any lot or parcel of land.

Private: Not publicly owned, operated, or controlled.

Private Airport: Defined in Section 1102.

Private Drive Sign: Defined in Section 903.

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession. Professional offices include but are not limited to offices for real estate, stock and bond brokers, accountants, adjusters, appraisers, utility companies, physicians, lawyers, clergymen, teachers, dentists, architects, engineers, insurance agents, opticians, banks, financial institutions, contractors (excluding storage) and similar office-oriented uses.

Projecting Sign: Defined in Section 903.

Property: A lot, parcel, or tract of land together with the building and structures located thereon.

Public Airport: Defined in Section 1102.

Public hearing: A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

Public Meeting: A forum held pursuant to notice under 65. C.S. §701 *et seq* (known as “Pennsylvania’s Sunshine Act”).

Public Notice: Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality; or other notice schedule as required by Pennsylvania Law. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Unless otherwise required by Pennsylvania Law, the first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Public Parks and Recreation Areas: Locations for leisure-time activities, including but not limited to sports and entertainment that are open to anyone without restriction, except for the rules and standards of conduct and use.

Public Recreation Facility/Public Grounds: Recreation facilities owned and/or operated by an agency of the municipality or other governmental body, including but not limited to parks, swimming pools, golf courses, etc.

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Public Sewer System: Any system other than an individual septic tank or tile field that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of wastes.

Public Sign: Defined in Section 903.

Public Street or Public Road: A street ordained or maintained or dedicated and accepted by a Borough, City, Township, County, State or Federal government and open to public use.

Public Utility: A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

Public Utility Building or Structure: Any building or structure which belongs to a public utility for uses such as electrical, telephone, gas, water and sewer which are regulated by the PUC or any other governmental agency.

Public Water System: An entity that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year.

Rear Yard: See Yard, Rear

Recreation, Active: Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

Recreation, Passive: Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, board and table games.

Recreation Facility: A place designed and equipped for the conduct of sports and leisure-time activities.

Recreation Facility, Public: A recreation facility open to the general public.

Recreational Equipment: Includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, and similar vehicles and equipment; and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

Recreational Vehicle: A vehicle-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Recreational Vehicle Park: Any lot or parcel of land upon which two or more sites are located, established, or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes.

Recycling Center: A use involving the collection, separation and/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

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processing of non-recycled solid waste, unless the use also meets the applicable requirements for a solid waste processing facility. This definition shall not include a “junkyard.”

Renewable Energy District: The area as shown on the map attached hereto, made a part hereof and labeled "Renewable Energy District Map."

Rental Services: A business establishment that rents machinery, equipment and tools of any or all kinds and sizes (from earthmoving to powered access, from power generation to hand-held tools, etc.) for a limited period of time to final users, mainly to construction contractors but also to industry and individual consumers.

Residence: A home, abode, or place where an individual is actually living at a specific point in time.

Residential Area: A generic term describing an area that gives the impression that it is predominately a place where people live.

Residential District: See District, Residential

Resort: A facility for transient guests where the primary attractions are recreational features or activities.

Resources, Primary: Defined in Section 1201.

Resources, Secondary: Defined in Section 1201.

Restaurant: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building, and/or that involves off-site delivery of ready-to-eat food.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retail Sales Area: The retail sales area shall be considered to be the total area of the smallest rectangle, or other regular geometric shape which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales area shall include all indoor and/or outdoor area as listed above.

Riding Academy: An establishment where horses are boarded and cared for and where instruction in riding, jumping, and/or showing is offered and where horses may be hired for riding.

Right-of-Way: A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

Right-of-Way Lines: The lines that form the boundaries of a right-of-way.

Road: See “Street”.

Runway: Defined in Section 1102.

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Roadside Stand: See "Farm Stand".

Rooster: An adult male domestic chicken.

Salvage: The utilization of waste materials.

Salvage Yard: A facility or area for storing, selling, dismantling, shredding, compressing, or salvaging scrap, discarded material, or equipment.

Sand Pit: A quarry from which sand is excavated.

Sanitary Landfill: Any facility, fully permitted by the Pennsylvania Department of Environmental Resources, used for the purpose of disposing of solid wastes of an industrial, commercial or domestic nature.

Sawmill: A place or building in which timber is sawed into planks, boards, etc. by machinery.

School: Any place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical governing body, person, partnership or corporation meeting the requirements of the Commonwealth of Pennsylvania.

School, College: A school having regular sessions with employed instruction which provides education above the level of the secondary school, and that is authorized to grant academic degrees. The term may include a junior college, college, or university.

School, Commercial: A school conducted for profit for such instruction as business, art, music, trades, handicraft, or dancing.

School, Elementary: Any school having regular sessions with employed instruction which teaches those subjects that are fundamental and essential in general education for elementary grades.

School, Secondary: Any school having regular sessions with employed instruction which teaches those subjects that are fundamental and essential in general education for secondary grades.

School, Trade/Professional: See "School, Commercial."

School, Vocational: A school that is similar to an elementary or secondary school except that the primary activity is training in a trade or vocation.

Scrapyard: See "Junkyard"

Screening: A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Screen Planting: A vegetative material of sufficient height and density to conceal from the view of property owners on adjoining properties the structures and uses on the premises on which the screen planting is located.

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Seasonal Use: A use carried on for only a portion of the year.

Secondary Conservation Area: Defined in Section 1201.

Security Sign: Defined in Section 903.

Self-Storage Facility: A building or group of buildings designed and/or used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. A self-service storage facility is not a public warehouse.

Service Station: See “Automotive Service Station”

Services: Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Setback: The distance between the building or structure and any lot line.

Setback Line: That line that is the required minimum distance from any lot line and that establishes the area within which the principal structure may be erected or placed.

Shielded: Defined in Section 903.

Short-term Rental: Any rental of a dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of less than thirty (30) consecutive days.

Side Yard: See Yard, Side

Sidewalk: A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Sidewalk Area: That portion of the right-of-way that lies between the right-of-way line and curb line, regardless of whether the sidewalk exists.

Sight Distance: The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

Sign: Defined in Section 903.

Sign Area: Defined in Section 903.

Sign Face: Defined in Section 903.

Sign Height: Defined in Section 903.

Sign Supporting Structure: Defined in Section 903.

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Similar Use: A use that has the same characteristics as the specifically cited uses in terms of trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and market area.

Single Housekeeping Unit – One person or two or more individuals living together sharing household responsibilities and activities, which may include, sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.

Site: Any plot or parcel of land or combination of contiguous lots or parcels of land.

Site Plan: An accurately scaled development plan that illustrates the existing conditions on a land parcel as well as depicting details of a proposed development.

Slaughterhouse: A building or place where animals are butchered for food.

Solar Array: Defined in Section 1303.

Solar Cell: Defined in Section 1303.

Solar Energy: Defined in Section 1303.

Solar Module: Defined in Section 1303.

Solar Panel: Defined in Section 1303.

Solar Related Equipment: Defined in Section 1303.

Solid Waste: Unwanted or discarded material, including waste material with insufficient liquid content to be free flowing.

Solid Waste Disposal: The ultimate disposition of solid waste that cannot be salvaged or recycled.

Solid Waste Transfer Station: A light industrial facility where municipal solid waste is consolidated and transferred to large, long-distance trucks for delivery to disposal facilities. For purposes of this Chapter, facilities serving only as citizen drop-off stations or community convenience centers are not considered waste transfer-stations. Only a facility that receives some portion of its waste directly from collection vehicles, then consolidates and reloads the waste onto larger vehicles for delivery to a final disposal facility, is considered a transfer station. A convenience center, on the other hand, is a designated area where residents manually discard waste and recyclables into dumpsters or collection containers. These containers are periodically removed or emptied, and the waste is transported to the appropriate disposal site (or possibly to a transfer station first).

Special Event of a Temporary Nature: A temporary use of land and/or structures for specially scheduled events of a temporary and short-term nature, including but not limited to fairs, festivals, circuses, concerts and the like. The term does not include private events such as business meetings, private parties, weddings, receptions, banquets, fund-raising events, conferences and similar functions.

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Special Exception Use: A use permitted in a particular zoning district and approved by the Zoning Hearing Board pursuant to the provisions of this ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code. A special exception use must be approved by the Zoning Hearing Board.

Spot Zoning: Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the municipality's comprehensive plan.

State Game Lands: Lands owned and managed by the PA State Game Commission for wildlife and recreation. Lawful hunting and trapping are permitted during open seasons on these public hunting grounds.

Stealth Technology: State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize the visual impact as much as possible. These design techniques are applied to wireless communications facilities, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Steep Slope: Defined in Section 1201.

Stockyard: An enclosure with pens, sheds, etc., connected with a slaughterhouse, railroad, market, etc., for the temporary housing of cattle, sheep, swine, or horses.

Stoop: A covered or uncovered area at the front, side or rear door.

Storage Facility: A building or group of buildings containing storage space for lease or rent for varying periods of time. See also, Self-Storage Facility.

Storage Shed: A structure not intended for residential occupancy which is accessory to the principal use of the property as a place to store personal property.

Story: The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be considered as a story if more than 50% of its clear height is above finished grade, or if it is used for business, or dwelling purposes.

Street: A public or private right-of-way, excluding driveways, intended for use as a means of vehicular and pedestrian circulation, which provides a means of access to abutting property. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane, alley and road or similar terms.

Street, Arterial: A high-capacity road or thoroughfare that functions primarily to deliver traffic from collector streets to freeways or expressways, and between urban centers at the highest level of service possible. For purposes of this ordinance, arterials are identified on PennDOT's Federal Functional Class map of Erie County.

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Street, Collector: A street that collects traffic from local streets and connects with arterials. For purposes of this ordinance, collectors are identified on PennDOT's Federal Functional Class map of Erie County.

Street, Cul-De-Sac: A street with a single common ingress and egress and with a turnaround at the end.

Street, Dead-End: A street with a single common ingress and egress.

Street, Local: A street that provides frontage for access to abutting lots and carries slow-speed traffic primarily having a destination or origin on the street itself.

Street, Private: A legally established street right-of-way that has not been offered for dedication to the municipality or accepted for municipal ownership and maintenance.

Street Frontage: Defined in Section 903.

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

Structure, Accessory: See Accessory Structure.

Structure, Non-Conforming: See Non-Conforming Structure.

Structure, Principal: The main or primary structure on a given lot, tract, or parcel.

Structure, Temporary: A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Studio: A building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for radio or television broadcasting.

Subdivision: The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or residential dwelling, shall be exempted.

The term "subdivision" includes any development of a parcel of land (for example a shopping center, an industrial park, or a multiple dwelling project), which involves installation of streets and/or alleys, even though streets and alleys may not be dedicated immediately to public use and the parcel may not be divided immediately for purposes of conveyance, transfer or sale.

Subdivision, Major: A subdivision containing more than five lots, requiring the submission by the developer and approval by the governing body (either conditional or final) of preliminary and final subdivision plans and/or subdivision involving a new street right-of-way.

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Subdivision-Minor: A submission containing five lots or fewer, served by an existing public street, wherein the governing body may waive the requirements of submitting a preliminary subdivision plan, provided the final subdivision plan meets all the requirements of the SALDO.

Supervisors: The Board of Supervisors, North East Township, Erie, County, Pennsylvania.

Swimming Pool: A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing. Farm ponds and/or lakes are not included provided that swimming was not the primary purpose for their construction.

Tannery: A place or building where animal skins and hides are tanned.

Target Range or Shooting Range: A specialized facility designed for target practice for archery or firearms.

Tavern: An establishment which serves alcoholic beverages for mostly on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board. Taverns may also serve food.

Temporary Sign: Defined in Section 903.

Temporary Storage Unit: Movable units intended for storage including those commercially known as “pods” or enclosed “containers” of a box trailer with or without wheels, subject to requirements and conditions in Article 705.01.

Temporary Structure: See “Structure, Temporary”.

Temporary Use: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Township: The Township of North East, Erie County, Pennsylvania.

Tract: Defined in Section 1201.

Tract Area, Adjusted: Defined in Section 1201.

Tract Area, Gross: Defined in Section 1201.

Tract Area, Net: Defined in Section 1201.

Transitional Surfaces: Defined in Section 1102.

Treatment Center/Pre-Release Detention Facility:

- A. Treatment Center means a use, other than a prison, providing housing facilities for persons who need specialized housing, treatment, and/or counseling and who need such facilities because of: criminal rehabilitation, such as a criminal halfway house, criminal transitional living facility or a treatment/housing center for persons convicted of driving under the influence of alcohol; chronic abuse of or addiction to alcohol and/or a controlled substance; or a type of mental illness or other

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behavior that can reasonably be expected to cause a person to be a threat to the physical safety of others.

- B. A Pre-Release Detention Facility is any use (other than a prison or state correctional institute) which involves the placement of persons under the jurisdiction or supervision of the Department of Corrections, the Board of Probation and Parole, or the Board of Pardons and/or any county probation department, without regard to any primary or secondary medical/psychological/social treatment purpose.

Tri-Vision Boards: Defined in Section 903.

Turbine Height: Defined in Section 1403.

Truck: Any of various heavy motor vehicles designed for carrying or pulling loads.

Truck and Heavy Equipment Sales, Service and Repair Service: A facility for the sales, rental, service and repair of heavy motor vehicles, heavy equipment and/or heavy machinery.

Truck Terminal: Land and buildings used primarily for the storage and maintenance of trucks and/or trailers that are associated with the terminal. The terminal may also be used for the transfer of freight from one truck and/or trailer to another.

Use: The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Utility Runway: Defined in Section 1102.

Variance: Permission to depart from the literal requirements of a zoning ordinance.

Vehicle: A thing used for transporting people or goods by land, water or air.

Vehicle, Motor: A self-propelled device licensed as a motor vehicle and used for transportation of people or goods over roads.

Vehicle Sales, Rental and Service: A facility for the sales, rental, service (including oil and tire changes) and washing of automobiles, trucks, buses, boats and marine equipment, motorcycles, campers, motor homes, recreational vehicles and other vehicles

Vending Machine Sign: Defined in Section 903.

Veterinary Clinic: A facility used for the treatment of domestic animals for pay with health treatment provided by a licensed veterinarian.

Visual Runway: Defined in Section 1102.

Visual Screen: A barrier for the purpose of limiting or obscuring a view; generally comprised of vegetation, structures, or earthworks suitable for the purpose.

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Wall Sign: Defined in Section 903.

Warehouse: A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail uses or a truck terminal, unless such uses are specifically permitted in that zoning district.

Water Course: A stream, river, brook, creek, or channel or ditch for water, whether natural or manmade.

Water Facility: Any waterworks, water supply works, water distribution system or part thereof, designed, intended or constructed to provide or distribute potable water.

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

Wholesale Facility or Wholesale Trade: An establishment or place of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Energy Conversion System: Any device, such as a wind turbine, which converts wind to a form of usable electric energy.

Wind Energy Facility: Defined in Section 1403.

Wind Turbine: Defined in Section 1403.

Wind Turbine, Small: Defined in Section 1403.

Window Sign: Defined in Section 903.

Wine: Liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term "wine" shall not include any products containing alcohol derived from malt, grain, cereal, molasses or cactus.

Winery: Any premises or plant where any alcohol or liquor is produced by the process by which wine is produced, or premises or plant wherein liquid such as wine is produced; and shall include the manufacture by distillation of alcohol from the by-products of wine fermentation when the alcohol so derived is used solely to fortify the fermented products, under such regulations as are or may be promulgated by the proper agency of the United States Government.

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Wireless: Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

Wireless Communications Facility (WCF): The set of equipment and network components including antennas, transmitters, receivers, cabling and accessory equipment, used to provide wireless data and telecommunication services. WCF are usually attached to a communication tower or other structure to achieve the necessary elevation.

Wireless Communications Facilities, Non-Tower (Non-Tower WCF): Wireless communications facilities, including but not limited to, antennae and related equipment. Non-tower WCF shall not include support structures for antennae and related equipment.

Wireless Facility, Small: A wireless communications facility that (1) is mounted on a structure 50 feet or less in height including its antenna, or (2) is mounted on a structure no more than 10 percent taller than other adjacent structures, or (3) does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

Woodlands: Defined in Section 1201.

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

Yard, Buffer: See Buffer Yard.

Yard, Front: A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

Yard, Rear: A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

Yard, Required: The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as provided in the zoning ordinance.

Yard, Side: A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Yard Depth: The shortest distance between a lot line and a yard line.

Yard Line: A line drawn parallel to a lot line at the distance therefrom equal to the depth of the required yard.

Yard Sale: See Garage Sale.

Zone: Same as District.

Zoning: The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

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Zoning Administrator: The administrative officer designated to administer the zoning ordinance and issue Zoning Permits, or his/her authorized representative.

Zoning District: A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Zoning Map: The map or maps that are a part of the zoning ordinance and delineate the boundaries of zoning districts.

Zoning Officer: See Zoning Administrator.

Zoning Permit: A document issued by a Zoning Administrator, as required in the Zoning Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, that acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or authorized variance therefrom.

## Article 3 Administration and Enforcement

### 301 Administration

#### 301.01 Zoning Administrator

The duty and authority of administration and enforcement of the provisions of this chapter are hereby conferred upon the Zoning Administrator and his or her subordinates and/or designees, who may not hold an elective office in the municipality. The Zoning Administrator shall be appointed by the Board of Supervisors.

#### 301.02 Powers and Duties of Zoning Administrator

The duties of the Zoning Administrator shall be:

- A. Administer this chapter in accordance with its literal terms;
- B. To receive, examine and process all applications and permits as provided by the terms of this chapter. The Zoning Administrator shall also issue Zoning Permits for special exception and conditional uses, or for variances after the same have been approved;
- C. To record and file all applications for Zoning Permits, and accompanying plans and documents, and keep them for public record;
- D. To inspect properties to determine compliance with all provisions of this chapter as well as conditions attached to the approval of variances, special exceptions, conditional uses and curative amendments;
- E. Determine the date before which steps for compliance must be commenced and the date before which the steps must be completed. The Zoning Administrator shall determine an appropriate duration of time for compliance of the specified activity, not to exceed 30 days. Extensions up to a total of 90 days from the date of receipt of the enforcement notice may be granted at the discretion of the Zoning Administrator if applied for in writing;
- F. Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies-facts, records, and any similar information on specific requests, to assist such bodies in reaching their decisions;
- G. To be responsible for keeping this chapter and the zoning map up to date, including any amendments thereto;
- H. To revoke a permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this chapter, or otherwise permitted by law;
- I. To review proposed subdivisions and land developments for compliance with this chapter; and
- J. To take enforcement actions as provided by the Pennsylvania Municipalities Planning Code, as amended.
- K. The Zoning Administrator may be authorized by the municipality to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.

### 302 Zoning Permits

A Zoning Permit indicates that a zoning application complies with this chapter to the best knowledge of the Zoning Administrator or his/her designee. No Zoning Permit shall be granted by him/her for any purpose except in compliance with the literal provisions of this chapter.

#### 302.01 Permit Requirement

A Zoning Permit is required to be issued prior to the start of any of the following activities, unless otherwise exempted under Section 302.02 of this chapter:

- A. Erection, construction, placement, or alteration of any building or structure
- B. Construction of an addition to a building or structure, including decks and porches
- C. Demolition or moving of a building or structure
- D. Making or effecting a change of use of vacant land or any building or structure
- E. Making any change or extension to a nonconforming use
- F. Construction or installation of swimming pools, spas or hot tubs with a holding capacity of over thirty-six inches (36") of water in depth.
- G. Construction or alteration of signs except as exempted in this chapter (see Article 9, Signs).
- H. Any temporary use and/or structure that requires a Zoning Permit under Section 302.03 of this chapter.

#### 302.02 Permit Exemptions

No Zoning Permit shall be required for the following. When a Zoning Permit is not required, certain activities may still require permits under other ordinances, including, but not limited to, Uniform Construction Code permits.

- A. Ordinary repairs and maintenance of buildings or structures which do not structurally change the building or structure
- B. Remodeling or improvement of existing buildings that does not alter the basic structure, create additional lot area coverage or change the use of the parcel or building.
- C. Steps not exceeding 32 square feet.
- D. Stoops not exceeding 32 square feet.
- E. Chimneys not exceeding 32 square feet.
- F. Handicap ramps (not including decks or turning radii).
- G. Overhangs, provided they do not extend more than twenty-four (24) inches beyond the outside wall.
- H. Mailboxes.
- I. Fences and walls less than two (2') feet high.
- J. Construction or installation of swimming pools, spas or hot tubs with a holding capacity of less than or equal to thirty-six inches (36") of water in depth.
- K. Accessory buildings not exceeding 120 square feet, not exceeding 10 feet in height, and not having a permanent foundation.
- L. Temporary structures: those structures, consisting of materials of poles, fabric and vinyl, not exceeding three hundred twenty (320) square feet and that have no foundation or footing and

which are removed when the designated time period, activity or use for which it was erected has ceased, but in no event to exceed one hundred eighty (180) calendar days in a calendar year from when first erected. Provided, however, that a temporary structure of any size erected for less than one (1) calendar week in any calendar year shall not require any Zoning Permit. Examples of temporary structures are carports, picnic shelters and rollout portable awnings. Temporary structures shall still meet the setback requirements of this chapter for the district in which the temporary structure is located.

- M. Signs exempted by this chapter (see Article 9, Signs).
- N. Roof mounted cupolas
- O. Wi-Fi antennas which are designed for personal or private use; private residence mounted satellite dishes or television antennas; or amateur radio equipment including, without limitation, ham or citizen band radio antennas
- P. The following temporary uses do not require a Zoning Permit:
  - 1. Christmas tree sales conducted between Thanksgiving Day and January 1<sup>st</sup>.
  - 2. Mobile amusement and lighting equipment for promotion, advertisement and grand openings on properties located in the MU Mixed Use, B-1 Business and B-2 Business districts for events not exceeding five (5) days in duration.
  - 3. Temporary storage and office trailers that are necessary to serve on-site construction, while such construction is actively underway, subject to the requirements of Section 705.01.
  - 4. The temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding 14 consecutive days or 14 days within a calendar year. The use shall comply with all applicable requirements of Section 705.02 (Recreational Vehicles & Recreational Equipment).
  - 5. Within a legally permitted campground or recreational vehicle park, the temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding 9 consecutive months or 9 months within a calendar year.

### **302.03 Permits for Temporary Uses and Structures**

A Zoning Permit for a temporary use or structure may be issued by the Zoning Administrator in accordance with the following:

- A. A Zoning Permit for a temporary use or structure shall not be issued for any temporary use or structure where said use would violate any of the provisions of this chapter.
- B. Unless otherwise specified by this chapter, Zoning Permits for a temporary use or structure are limited to a one-week period renewable for a maximum of three additional weeks during any one calendar year.
- C. A Zoning Permit is required for any of the following temporary uses or structures:
  - 1. Mobile amusement and lighting equipment for promotion, advertisement and grand openings on properties located in the MU Mixed Use, B-1 Business and B-2 Business districts for events exceeding five (5) days.

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2. Temporary storage units, except as exempted in this chapter, subject to the requirements of Section 705.01.
3. Temporary occupancy of recreational vehicles or recreational equipment for a period of time greater than 14 consecutive days or 14 days within a calendar year, but less than 180 consecutive days or 180 days within a calendar year. Unless specifically stated otherwise in this ordinance, the period of occupancy shall not exceed 180 consecutive days or 180 days within a calendar year. The use must comply with all applicable requirements of Section 705.02 (Recreational Vehicles & Recreational Equipment). Such permit shall not be renewable. In accordance with Section 302.02 (P)(4) no permit is required for temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding (1) 14 consecutive days or (2) 14 days within a calendar year.
4. Farm stands for the sale of agricultural products, subject to the requirements of Section 1002.56.
5. Temporary stands for the sale of fireworks and related incidental items. Such stands are subject to the following:
  - a. Such stands shall be permitted only within the B-1 Business and B-2 Business Districts.
  - b. Such stands shall comply with all applicable requirements of this chapter.
  - c. Such stands shall be permitted for a period not exceeding 30 days in any one calendar year.
  - d. Such stands shall be removed upon expiration of the Zoning Permit for the temporary use or structure.
6. Special Events of a Temporary Nature, as defined in Article 2 of this chapter, and subject to the requirements set forth in Section 1002.48.
7. Agritourism enterprises/events with more than 100 attendees at one time, subject to the requirements of Section 1002.57.

**302.04 Application for Zoning Permits**

- A. **Submittal:** All applications for a Zoning Permit shall be made in writing on a form provided by the municipality, and shall be accompanied by any additional information that the municipality may require for administration of this chapter. Such completed application, with required fees, shall be submitted to a designated municipal employee. An application shall be considered to be complete when it is completely filled out by the applicant, all necessary information is submitted, and the appropriate fee(s) is/are paid.
- B. **Uniform Construction Code:** Where the proposed use is regulated under the Uniform Construction Code, the applicant shall submit an application for a building permit concurrently with the Zoning Permit.
- C. **Areas Subject to Flooding:** If the proposed development, excavation or construction is located within an area subject to regulation by the North East Township Floodplain Ordinance, the following information is specifically required to accompany all applications, as prepared by a licensed professional:
  1. The accurate location and elevation of the floodplain and floodway;

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2. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), of the lowest floor, including basements;
  3. The elevation, in relation to the NGVD, to which all structures and utilities will be flood-proofed or elevated;
  4. Where flood-proofing is proposed to be utilized for a particular structure, the Zoning Permit application shall be accompanied by a document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania, or a licensed professional architect registered by the Commonwealth of Pennsylvania certifying that the flood-proofing methods used meet all applicable codes and ordinances.
- D. The only determination by the Zoning Administrator that shall be official shall be a written determination after the Zoning Administrator receives a duly submitted, written, official application.
- E. In all instances in which the Zoning Administrator expresses a reasonable doubt as to the ability of a proposed use to meet all of the requirements of this chapter, it will be incumbent upon the applicant to furnish adequate evidence in support of his/her application. If such evidence is not presented, the Zoning Permit will be denied.
- F. By Whom Application is Made: Application for a Zoning Permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making the application, that the proposed work is authorized by the Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.
- G. The Zoning Administrator may call upon other North East Township staff and/or Township appointed consultants in the review of submitted materials for applications;
- H. Reconsideration of Application: An applicant whose request for a permit has been denied by the Zoning Administrator may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. Additional fees may apply as set by the Board of Supervisors.
- I. Expiration of Zoning Permit: The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended one time for one (1) additional year, upon written request by the applicant on a form provided by the municipality. If any revisions or modifications are made to the permit, the permit expiration date shall not be extended, and a new permit shall be required.
- J. Inspections: Inspections of the property in question by the Zoning Administrator or other duly appointed official may be required at various intervals during the construction process. By submitting an application for a Zoning Permit, the landowner authorizes the municipality to perform such inspections as required.

### 302.05 Issuance of Zoning Permits

- A. Issuance of Permits: Upon receiving the application, the Zoning Administrator shall examine the same within a reasonable time after filing. If the application or plans do not conform to the

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provisions of all pertinent local laws, he/she shall reject such application in writing, stating the reasons therefore. He/she shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all other laws and ordinances applicable thereto, he/she shall issue a permit therefore as soon as practical but not later than ninety (90) days from receipt of the application.

- B. Permitted By Right Uses: The Zoning Administrator shall issue a Zoning Permit under this chapter in response to an application for a use that is “permitted by right” if it meets all of the requirements of this chapter.
- C. Special Exception Use: A Zoning Permit under this chapter for a use requiring a Special Exception Permit shall be issued by the Zoning Administrator only in response to a written approval by the Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board and any conditions required by this chapter.
- D. Conditional Use: A Zoning Permit under this chapter for a use requiring a Conditional Use Permit shall be issued by the Zoning Administrator only in response to a written approval by the Board of Supervisors, following a hearing, and compliance with any conditions by the Board of Supervisors and any conditions required by this chapter.
- E. Applications Requiring a Variance: A permit under this chapter for applications requiring a Variance shall be issued by the Zoning Administrator only in response to a written approval by the Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board.
- F. Stormwater Management: No Zoning Permit shall be issued until the applicant complies with all applicable requirements of the North East Township Stormwater Management Ordinance. This may include, but is not limited to the following submissions, as applicable: small projects stormwater management application, stormwater management site plan, NPDES permit and/or soil erosion and sedimentation permit.
- G. Highway Occupancy Permit: Where necessary for access onto a State road, no Zoning Permit shall be issued until the applicant is issued a Highway Occupancy Permit from the Pennsylvania Department of Transportation.
- H. Sewage Facilities Approval: Where applicable, no Zoning Permit shall be issued until the applicant submits written confirmation that the Erie County Health Department and/or Pennsylvania Department of Environmental Protection (PADEP) has approved the sewage disposal system which is to serve the use. If the use is to be served by a public sewer system, no Zoning Permit shall be issued until all required approvals are received for connection to the sewer system.
- I. Water Facilities Approval: Where the use will be served by a public water system, no Zoning Permit shall be issued until all required approvals are received for connection to the public water system.
- J. Compliance with Subdivision and Land Development Ordinance: If an application under this Chapter is also regulated by the North East Township Subdivision and Land Development Ordinance (“SALDO”), then any permit or approval under this chapter shall automatically be conditioned upon compliance with the SALDO. For example, if an applicant applies for a permit for a single-family detached dwelling on a proposed new lot, the permit for such dwelling shall

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not be valid until after the lot is granted final subdivision and land development approval and the lot is officially recorded by the Erie County Recorder of Deeds.

- K. Service Connections (Demolition): Before a building or structure is demolished or removed, the owner or owner's agent shall notify all utilities having service connections within the structure. A Zoning Permit authorizing the demolition or removal of a building or structure shall require that prior to issuance of a permit, the owner shall submit a certification that all service utilities and adjacent property owners have been notified of the proposed demolition and that service connections have been removed.
- L. A copy of each Zoning Permit application and any other zoning approvals shall be retained in municipal files.
- M. After the permit under this chapter has been issued, the applicant may undertake the action specified in the permit, in compliance with this chapter and any other applicable ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this 30-day appeal period shall be at the risk of the applicant.
- N. Compliance with Chapter: The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this chapter, except as stipulated by the Zoning Hearing Board.
- O. Compliance with Permit and Plot Plan: All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan, if applicable.
- P. Display of Zoning Permit: All approved Zoning Permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its Certificate of Occupancy.

### 302.06 Revocation of Permits & Appeals

- A. Revocation: The Zoning Administrator shall revoke, withhold or suspend a permit or approval issued under the provisions of this chapter in the case of one or more of the following:
  - 1. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties.
  - 2. Upon violation of any condition lawfully imposed by the Zoning Hearing Board for a Special Exception Use or a Variance.
  - 3. Upon violation of any condition lawfully imposed by the Board of Supervisors for a Conditional Use.
  - 4. Any work being accomplished or use of land or structures in such a way that does not comply with this chapter or an approved site plan or approved permit application.
  - 5. Any other just cause set forth in this chapter.

- B. Appeals: A party with legitimate standing, or as otherwise provided by State law, may appeal decisions made under this chapter within the provisions of the Pennsylvania Municipalities Planning Code (MPC). Such appeal shall occur within the time period established by the MPC.

### **302.07 Certificate of Occupancy**

- A. Where a building permit is required under the Uniform Construction Code, it shall be unlawful to use and/or occupy any building or structure until a Certificate of Occupancy for such building or structure has been issued by the Building Code Official.
- B. A Certificate of Occupancy shall not be issued until a final inspection by the Building Code Official is complete and all work is found to be satisfactory.

### **303 Interpretation of Ordinance Text**

- A. The Zoning Administrator shall literally apply the wording of this chapter and the location of all zoning district boundaries to applications. In any case, the Zoning Administrator may also request an advisory opinion from the municipal solicitor or the Zoning Hearing Board solicitor to aid in the Zoning Administrator's determination.
- B. If an applicant disagrees with the Zoning Administrator's determination and believes that the chapter should be interpreted in the applicant's favor, the applicant may appeal to the Zoning Hearing Board.

### **304 Uses Not Specifically Regulated**

If a use clearly is not permitted by right, conditional use or as a special exception use by this chapter within any zoning district, the use is prohibited, except that the Board of Supervisors may permit such use as a conditional use if the applicant specifically proves to the clear satisfaction of the Board of Supervisors that all of the following conditions will be met:

- A. Proposed use will be equal or less intensive in external impacts and nuisances than uses that are permitted in the zoning district.
- B. Proposed use will be closely similar in impacts and character to uses permitted in that zoning district. (See Section 405 (B))
- C. Use will meet all standards that apply under Section 1001 for a Special Exception use.
- D. Use is not specifically prohibited in that zoning district.

### **305 Enforcement, Violations and Penalties**

All of the enforcement, violations and penalty provisions of the Pennsylvania Municipalities Planning Code, as amended, are hereby incorporated into this chapter by reference.

- A. Violations: Any person who shall commit or who shall permit any of the following actions violates this chapter:
  - 1. Failure to secure a Zoning Permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, or the excavation of land to prepare for the erection, construction or alteration of any structure or portion thereof, or as may otherwise be required by this chapter.

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2. Placement of false statements on or omitting relevant information from an application for a Zoning Permit.
  3. Undertaking any action in a manner which does not comply with an approved Zoning Permit.
  4. Violation of any conditions imposed by a decision of the Zoning Hearing Board in granting a variance, special exception or other approval.
  5. Violation of any condition imposed by a decision of the Board of Supervisors in granting a conditional use.
- B. Causes of Action; Enforcement; Remedies
1. Enforcement: If it appears to the Zoning Administrator that a violation of this chapter has occurred, the Zoning Administrator shall initiate enforcement proceedings by sending an enforcement notice. Prior to sending an official enforcement notice, the Zoning Administrator may at his/her option informally request compliance.
  2. Enforcement Notice: The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. An enforcement notice shall state the following, at minimum:
    - a. The name of the owner of record and any other person against whom the municipality intends to take action.
    - b. The location 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 provisions of this chapter.
    - 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 a prescribed period of time in accordance with procedures set forth in this chapter.
    - 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 possible sanctions clearly described.
  3. Evidence & Fees: In any appeal of an enforcement notice to the Zoning Hearing Board, the municipality shall have the responsibility of presenting its evidence first. Any filing fees paid by a party to an appeal to an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the municipality if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
  4. Cause of Action: If the enforcement notice is not complied with, within the specified time period, the Zoning Administrator shall notify the Board of Supervisors. With the consent of the Board of Supervisors, the municipal solicitor or other officer of the municipality may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent in or about such premises, any act, conduct, business or use constituting a violation.

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5. Jurisdiction: District justices shall have initial jurisdiction over proceedings brought under Section 305 (B, 6).
6. Violations and Penalties. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including the reasonable attorney's fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless a District Justice determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this chapter shall be paid over to the municipality.

### 306 Fees

The Board of Supervisors may, by resolution, establish fees for the administration of this chapter. All fees shall be determined by a schedule that is made available to the general public. The Board of Supervisors may reevaluate the fees schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this chapter, shall be undertaken by Resolution voted upon by the Board of Supervisors, and may be adopted at any public meeting of the Board of Supervisors.

### 307 Amendments

- A. Power of Amendment: The Board of Supervisors may introduce and/or consider amendments to this chapter and to the zoning map as proposed by a member of the Board of Supervisors, the North East Township Planning Commission, or by a petition of a person or persons residing or owning property within the Municipality.
- B. Petitions: Petitions for amendment shall be filed with the Zoning Administrator or other designated municipal employee, and the petitioner, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a schedule affixed by resolution by the Board of Supervisors. The Zoning Administrator or other designated municipal employee shall receive the petition on behalf of the Board of Supervisors.
- C. Referral: Any proposed amendment presented to the Board of Supervisors without written findings and recommendations from the North East Township Planning Commission and the Erie County Planning Commission shall be referred to these agencies for their review and recommendations prior to the public hearing by the Board of Supervisors. The Board shall not hold a public hearing upon such amendments until required reviews and recommendations are

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received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to the North East Township Planning Commission and the Erie County Planning Commission.

### D. Action:

1. Before acting upon a proposed amendment, the Board of Supervisors shall, as required by law, hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same can be examined, and shall be published in accordance with the provisions of the Pennsylvania Municipalities Planning Code. If the proposed amendment involves a change to the zoning map, notice of the public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
2. In addition to the requirement that notice be posted where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. Notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This clause shall not apply when the rezoning constitutes a comprehensive rezoning.
3. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

- E. Curative Amendments: A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Board of Supervisors with a written request that his/her challenge and proposed amendment be heard and decided as provided in the Pennsylvania Municipalities Planning Code.

## **308 Zoning Hearing Board**

### **308.01 Creation of the Board**

A Zoning Hearing Board shall be created for the purpose of reviewing applications for variances or exceptions to this chapter and deciding whether there is a legitimate reason for granting relief or exception to a specific provision or provisions of this chapter when requested. It shall be created and maintained in accordance with applicable provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as amended, perform duties, and exercise all powers vested in it by the provisions of said Act. It is the intention of the municipality to retain the current Zoning Hearing Board and the Zoning Hearing Board members shall continue to serve in their capacity for this chapter with terms of office as set forth under the previous ordinance.

### **308.02 Expenditures for Services**

Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

### **308.03 Legal Council**

Where legal council is desired, an attorney, other than the municipal solicitor, shall be used.

### **308.04 Jurisdiction**

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
- B. Appeals from the determination of the Zoning Administrator, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease-and-desist order or the registration or refusal to register any nonconforming use, structure or lot.
- C. Appeals from a determination by the municipal engineer or the Zoning Administrator with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
- D. Applications for variances from the terms of this chapter or the flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code and Section 308.06 of this chapter.
- E. Applications for special exceptions under this chapter or the floodplain ordinance.
- F. Appeals from the Zoning Administrator's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code.
- G. Appeals from the determination of the Zoning Administrator or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving Article V or VII applications of the Pennsylvania Municipalities Planning Code.

### **308.05 Hearings**

The Board shall conduct hearings and make decisions in accordance with Article IX of the Pennsylvania Municipalities Planning Code and the following requirements.

- A. Notice of hearings shall be given to the public through public notice as set forth in the Pennsylvania Municipalities Planning Code in a newspaper of general circulation in the County. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Written notice shall be given to the applicant, the Zoning Administrator, and to any person who has made timely request for the same. Written notices shall be prescribed by rules of the Board. In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

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- B. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, 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.
- C. The first hearing shall be held within sixty (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 shall be held within forty-five (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 case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his 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 municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- D. The hearings shall be conducted by the Board or the 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 Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- E. 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 Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- F. The Chairman or Acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- G. 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.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious testimony or evidence may be excluded.
- I. The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered

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by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

- J. The 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, except that advice from the Board's solicitor is exempt from this restriction; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- K. The Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or Hearing Officer. Where application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this chapter or the Pennsylvania Municipalities Planning Code, or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Except for challenges filed under 916.1 of the Pennsylvania Municipalities Planning Code, where the Board fails to render the decision within the period required by this chapter or the Pennsylvania Municipalities Planning Code, or fails to commence, conduct, or complete the required hearing as required by Article IX of the Pennsylvania Municipalities Planning Code, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days in the same manner as provided in Section 308.05 (A) of this chapter. Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.
- L. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board no later than the last day of the hearing, the Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

### 308.06 Variances

- A. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. Subject to the provisions of the Pennsylvania

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Municipalities Planning Code, the Board may by rule prescribe the form of application and may require preliminary application to the Zoning Administrator. The Board may grant a variance provided the following findings are made where relevant in a given case.

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located;
  2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  3. That such unnecessary hardship has not been created by the appellant;
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
  5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. Conditions: In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this chapter.
- C. Site Plan Approval: Any site plan presented in support of a variance shall become an official part of the record for said variance. Approval of any variance will also bind the use in accordance with the submitted site plan.

### 308.07 Special Exceptions

- A. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria of this chapter. The applicant must demonstrate compliance with all applicable provisions of this chapter, including the general requirements and standards listed in Section 1001 and any applicable specific requirements and standards identified in Section 1002 of this chapter.
- B. Filing Requirements: In addition to the required Zoning Permit information, each Special Exception application shall include the following:
1. Ground floor plans and elevations of proposed structures;
  2. Names and address of adjoining property owners including properties directly across a public right-of-way;
  3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this chapter; and,

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4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter;
- C. Conditions: In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this chapter. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this chapter.
- D. Site Plan Approval: Any site plan presented in support of the Special Exception pursuant to Section 308.07 (B)(3) shall become an official part of the record for said Special Exception. Approval of any Special Exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a Zoning Permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another Special Exception Approval.
- E. Conditional Approvals: When this chapter requires certificates, licenses, permits or similar documents, and when, in the Board's opinion, such documents will be issued in a matter of time, the Board may issue a conditional approval based upon the final issuance of such documents.

#### **308.08 Parties Appellant Before Board**

Appeals under Section 308.04 and proceedings to challenge this chapter under Section 308.04 may be filed with the Board, in writing, by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under Section 308.06 and for special exception under Section 308.07 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

#### **308.09 Time Limitations for Appeal**

- A. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. See also Section 914.1 of the Pennsylvania Municipalities Planning Code.
- B. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

#### **308.10 Time Limitations of Board's Decision**

- A. If the variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within three (3)

years of said date. For good cause, the Zoning Hearing Board may at any time, upon application in writing, extend either of these deadlines.

- B. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit, should he/she fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Zoning Hearing Board.
- C. Should the appellant or applicant commence construction or alteration within said two (2) year period, but should he/she fail to complete such construction or alteration within said three (3) year period, the Zoning Hearing Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such three (3) year period, and if the Zoning Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.
- D. As an alternative to the preceding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in this section. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Zoning Hearing Board must establish and bind a definite time frame for (1) issuance of a Zoning Permit, and (2) completion of construction of the project.

### **308.11 Stay of Proceedings**

Upon filing of any proceeding referred to in Section 913.3 of the Pennsylvania Municipalities Planning Code and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Administrator or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Administrator or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Administrator or other appropriate agency or body. See also Section 915.1 of the Pennsylvania Municipalities Planning Code.

## **309 Conditional Uses**

### **309.01 Filing for Conditional Use**

- A. For any use permitted by Conditional Use, a conditional use must be obtained from the Board of Supervisors. The Board of Supervisors shall hear and decide requests for conditional uses in accordance with the standards and criteria of this chapter. The applicant must demonstrate compliance with all applicable provisions of this chapter, including the general requirements and standards listed in Section 1001 and any applicable specific requirements and standards identified in Section 1002 of this Chapter.

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- B. Filing Requirements: In addition to the required Zoning Permit information, each Conditional Use application shall include the following:
  - 1. Fee: An application fee in an amount equal to that established annually by the Board of Supervisors.
  - 2. Plans: Three copies of a site plan and supporting data may be required which shows the size, location and topography of the site, the use of adjacent land, the proposed size, bulk, use and location of buildings, the location, distance and proposed function of all yards, open spaces, parking areas, driveways, storage areas and accessory structures; the location of all utilities, the provisions for parking, moving or loading of vehicles and the timing of construction proposed.

**309.02 Procedures**

- A. Public Hearing: Before voting on the approval of a Conditional Use, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. The Zoning Administrator shall submit each such application to the North East Township Planning Commission at least forty-five (45) days prior to the hearing held upon an application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.
- B. Notice Requirement: It shall be the responsibility of an applicant for a conditional use to provide notice of the application to all landowners within 500 feet from the applicant's property line, in accordance with the following requirements:
  - a. Said notice shall be made in writing on a form provided by the municipality.
  - b. Said notice shall be served by a Deputy, Constable, any competent person over 18, or by certified mail, return receipt requested.
  - c. Prior to presenting the application for approval by the Board of Supervisors, the applicant shall file with the Board of Supervisors an affidavit of service of the above-referenced notice, which affidavit shall be made on a form provided by the municipality.
- C. Conditions: In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this chapter. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this chapter.
- D. Site Plan Approval: Any site plan presented in support of the Conditional Use shall become an official part of the record for said Conditional Use. Approval of any Conditional Use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a Zoning Permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another Conditional Use approval.
- E. Conditional Approvals: When this chapter requires certificates, licenses, permits or similar documents, and when, in the Board of Supervisors' opinion, such documents will be issued in a

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matter of time, the Board of Supervisors may issue a conditional approval based upon the final issuance of such documents.

- F. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body, or such time as permitted by the Pennsylvania Municipalities Planning Code, as may be amended.
- G. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of this chapter or of any other ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- H. Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing, as provided in Section 908 (1.2) of the Pennsylvania Municipalities Planning Code, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as herein above provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the Pennsylvania Municipalities Planning Code. If the Board of Supervisors shall fail to provide such notice, the applicant may do so.
- I. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. 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 no later than the day following its date.

**309.03 Time Limitations**

- A. If a Conditional Use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the Conditional Use is finally granted, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Board of Supervisors may at any time, upon application in writing, extend either of these deadlines.
- B. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit should he/she fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Board of Supervisors.
- C. Should the appellant commence construction or alternation within said two (2) year period, but should he/she fail to complete such construction or alteration within said three (3) year period, the Board of Supervisors may, upon ten (10) days' notice in writing, rescind or revoke the granted Conditional Use, if the Board of Supervisors finds that no good cause appears for the failure to complete within such three (3) year period, and if the Board of Supervisors further finds that

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conditions have altered or changed in the interval since the granting of the Conditional Use that revocation or rescission of the action is justified.

- D. As an alternative to the preceding, an applicant can request, as part of the original application before the Board of Supervisors the granting of a timetable associated with the request which would supersede the deadlines imposed in this section. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board of Supervisors must establish and bind a definite time frame for (1) issuance of a Zoning Permit, and (2) completion of construction of the project.

## **Article 4 Nonconforming Lots, Structures, and Uses**

### **401 Continuation of Nonconforming Uses and Structures**

All lawful uses of land, buildings, signs, or other structures existing on the effective date of this chapter, or amendments that may later be adopted, may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this chapter. These uses of land, buildings, signs, or other structures shall be considered “nonconforming”.

### **402 Registration**

- A. Nonconforming uses and structures may be reported to the Zoning Administrator by the owner, user, lessor, or lessee, and be registered by the Zoning Administrator within one (1) year of the effective date of this chapter.
- B. The Zoning Administrator, upon proof of a legal nonconformity, is authorized to register the existence of the nonconforming uses and/or structures.
- C. Should a nonconforming use or structure not be reported or identified within one (1) year, the owner, user, lessor, or lessee of the nonconforming use or structure shall have the burden of establishing that the use or structure was nonconforming upon the effective date of this chapter. Sufficient proof of the following shall be provided, in a form acceptable to the Zoning Administrator:
  - 1. The date of construction of the building or structure, and the date the use was established.
  - 2. The continuous operation of the nonconforming use.
  - 3. Such other proof as may be deemed necessary by the Zoning Administrator.

### **403 Existing, Nonconforming Lots of Record**

The following requirements shall apply to the development and use of a nonconforming lot:

- A. Any lot of record existing at the effective date of this chapter, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the zoning district in which it is located even though its lot area and/or width are less than the minimum required by this chapter. However, such lot must comply with the yard, height, and coverage standards of the zoning district wherein it is located.
- B. If two or more lots of record with continuous frontage are held in single ownership and if both, all or any of such lots do not meet the requirements in this chapter for lot area and/or width in the zoning district, the lands involved shall be considered to be an undivided parcel for purposes of this chapter. The Zoning Administrator, upon receipt of an application for a permit, shall refer the application to the Zoning Hearing Board. The Zoning Hearing Board may require the lots of record to be replotted to create fewer lots, which would comply with the minimum requirements of this chapter.
- C. No provision of this chapter relating to side and rear yard requirements shall prevent the reasonable use of a lot of record. The Zoning Hearing Board, after providing notice to adjacent property owners and holding a public hearing, may grant a variance for a reduction in the

requirement for side yard and rear yards for non-conforming lots of record which lack required lot width or frontage.

#### 404 Nonconforming Uses and Structures

- A. Alterations and Reconstruction:
1. Repairs and structural alterations not constituting extensions, expansions or enlargements may be made to a nonconforming building or to a building occupied by a nonconforming use.
  2. A nonconforming building which is damaged by fire, an explosion, or a natural disaster, etc, may be rebuilt and used for the same purposes, provided that:
    - a. The reconstruction of the building is commenced within 18 months from the date of the destroying of the building and is carried to completion without undue delay, and
    - b. The reconstructed building does not exceed the height, gross floor area, or volume of the building destroyed.
- B. Extensions, Expansions, and Enlargements: Nonconforming uses or structure shall be allowed to expand, extend or enlarge. All extensions, expansions and enlargements of lawful nonconforming uses and structures shall be reviewed by the Zoning Administrator to determine compliance with the following standards:
1. Any extension, expansion or enlargement of a nonconforming building shall not exceed 50% of the total gross floor area of the nonconforming building from the time it became nonconforming, unless a special exception is approved by the Zoning Hearing Board.
  2. Any extension, expansion or enlargement shall conform to the height, area, yard and coverage regulations of the district in which it is located.
  3. Extension along a Nonconforming Setback: If an existing structure has a lawfully nonconforming building setback, additions may occur to increase the height above such setback or to extend other portions of the structure out to the nonconforming side or rear setback line, provided that:
    - a. The structure shall not be extended beyond the existing nonconforming setback line.
    - b. No additional nonconformity shall be created.
    - c. The new nonconforming extension shall not be greater than 25% of the existing gross floor area, unless a special exception is approved by the Zoning Hearing Board.
    - d. All other requirements of this Section are met.
    - e. Such addition shall not be permitted for a non-residential building or structure that abuts an existing residential use or residential district.
  4. All required loading and/or parking spaces for any expansion or enlargement shall comply with the requirements of this chapter.
  5. Any extension, expansion or enlargement of a nonconforming structure or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the nonconforming building or use.

6. Expansions, extensions or enlargements of a nonconforming sign shall be prohibited. See Section 922, Nonconforming Signs.
7. The intensity of a nonconforming use (resulting nuisances such as air pollution, noise, glare, vibrations, delivery traffic, hazards, etc.) shall not be increased.

#### **405 Change of Use**

- A. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- B. A nonconforming use may be changed to another nonconforming use only by the granting of a special exception by the Zoning Hearing Board in compliance with this chapter. Where a special exception approval is required, the Zoning Hearing Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
  1. Traffic safety and generation (especially truck traffic)
  2. Noise, dust, fumes, vapors, gases, odors, glare, vibration, fire, hazardous substances and explosive hazards
  3. Amount and character of outdoor storage
  4. Late night and early morning hours of operation if the new use would be close to dwellings
  5. Compatibility with the character of surrounding uses.

#### **406 Abandonment and Discontinuance**

A nonconforming use shall be presumed abandoned when operations associated with the nonconforming use have ceased by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within one (1) year from the date the activity stopped, and the use is not actively advertised for sale or lease. Such nonconforming use shall not thereafter be reinstated except in conformance with this chapter. A nonconforming structure or land, which is actively marketed, but has not been sold or leased, shall not be considered abandoned. The applicant shall be responsible to provide evidence that the nonconformity was not abandoned.

## Article 5 Zoning Districts & Use Table

### 501 Designation of Districts

For the purpose of this chapter, North East Township is hereby divided into zoning districts which shall be designated as follows:

- A-1 Preservation
- A-2 Agricultural
- R-1 Rural Residential
- R-2 Suburban Residential
- MU Mixed Use
- B-1 Business
- B-2 Business (High Impact)

### 502 Zoning Map

The locations and boundaries of the above districts are shown upon the map attached to and made a part hereof this chapter, which shall be designated the "North East Township Zoning Map". This zoning map and all notations, references and other data shown thereon are hereby incorporated by reference into this chapter as if all were fully described herein.

### 503 Interpretation of Zoning Boundaries

The following rules shall apply in the interpretation of zoning district boundaries as shown on the zoning map:

- A. Where a district boundary approximately follows the center line of a road, alley, or railroad line, the center line of such road, alley or railroad line shall be interpreted to be the zoning district boundary.
- B. Where a district boundary approximately parallels a road right-of-way or alley, the boundary shall be interpreted as being parallel to it and at such distance from it as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the scale of the zoning map.
- C. Where a district boundary approximately follows a lot line, the lot line shall be interpreted to be the zoning district boundary.
- D. Where a district boundary approximately follows a municipal boundary, the municipal boundary shall be interpreted to be the zoning district boundary.
- E. Where a district boundary is shown parallel to or as an extension of a lot line or other identifiable feature, it shall be construed as such.
- F. Where a district boundary is shown as connecting identifiable physical features or points on the map, such as the intersection of lot lines, it shall be construed as such.
- G. Where a stream, creek or other water body is bounded by two or more zoning districts the boundary line of these districts shall be extended to the center of the body of water.
- H. All distances pertaining to the delineation of zoning districts as shown on the zoning map shall be measured from the existing road right-of-way line when such distance is measured from a public road.

- I. Vacation of Public Ways: Whenever any road or alley is vacated, the location of the zoning district or districts adjoining such road or alley shall not be affected.
- J. Where it is not possible or practical for the Zoning Administrator to determine the location of a zoning district boundary line, or if a petitioner contests the Zoning Administrator's determination of the boundary, the Zoning Hearing Board, upon appeal, shall determine and establish the location of said boundary line.

## **504 District Purposes**

### **504.01 A-1 Preservation District**

The purpose of the A-1 Preservation Zoning District is to protect and encourage the continued use of prime farmland within the lake-plain area for agriculture and viniculture. This area has a unique microclimate, which results from the moderating effect of the lake, and which is particularly well-suited for growing grapes, cherries and other fruits and vegetables. Areas within the Preservation District are to be used primarily for agriculture, viniculture, and compatible residential, non-residential and accessory uses.

### **504.02 A-2 Agricultural District**

The purpose of the A-2 Agricultural Zoning District is to permit, protect and encourage the continued use of land for agricultural uses. The intent is to conserve pieces of land large enough to allow for efficient farm operations and associated enterprises, protect groundwater resources and provide for the conservation of environmentally sensitive areas. Those areas designated Agricultural Zoning are to be used primarily for agriculture purposes and limited residential, non-residential and accessory uses.

### **504.03 R-1 Rural Residential District**

The purpose of the R-1, Rural Residential Zoning District to accommodate low density, residential growth while protecting and preserving the Township's rural characteristics. The intent is to accommodate the needs of residents who desire a rural environment. Land uses include low density residential, agriculture and other rural uses.

### **504.04 R-2 Suburban Residential District**

The purpose of the R-2, Suburban Residential Zoning District is to accommodate all basic forms of housing including single family detached dwellings and housing structures for more than one family. It includes single family attached dwellings (such as duplexes, townhouses, and condominiums), patio homes, apartment buildings, and similar uses.

### **504.05 MU Mixed Use District**

The purpose of the MU, Mixed Use Zoning District is to accommodate the development and re-use of the former Mercyhurst University campus. This district is intended to accommodate a mix of commercial and residential uses that together will draw residents and visitors to the downtown area. The intent is to foster an active and vibrant downtown environment. Land uses include indoor and outdoor commercial recreation, sporting events, conferences, banquets, and similar events, as well as supportive commercial, medical and residential uses such as hotels, restaurants, medical offices, housing and other uses.

#### **504.06 B-1 Business District**

The purpose of the B-1, Business Zoning District is to provide land for the purpose of supplying commodities or services to the general public. Included are uses relating to both retail and wholesale trade, professional and personal services, general office facilities, sales and service, entertainment, restaurants, motels or hotels, and similar uses. Although the primary purpose of the district is to provide for the previously stated uses, compatible light industrial uses are also permitted. Heavy commercial, heavy industrial and other high impact uses are excluded in order to limit undesirable or incompatible situations and/or conflicts between land uses within this district.

#### **504.07 B-2 Business (High Impact) District**

The purpose of the B-2, Business Zoning District is to provide land for commercial, institutional, and industrial uses, including heavy commercial, heavy industrial and other high impact uses.

#### **504.08 Floodplain Overlay District**

The Floodplain Overlay District, as established by the Federal Emergency Management Association (FEMA) is indicated on the attached map. All properties within the Floodplain Overlay District must comply with FEMA regulations.

#### **504.09 Renewable Energy Overlay District**

The area as shown on the map attached hereto, made a part hereof and labeled "Renewable Energy District Map." The Overlay District Permits Solar Energy facilities as defined and regulated in Article 13 and Wind Energy facilities as defined and regulated in Article 14 hereto.

#### **505 District Use Table**

The types of uses permitted for each zoning district are listed in the following table and are considered principal uses unless they are listed in the accessory use section. Uses shall be defined according to the common meaning of the term or according to definitions as set forth in Article 2. Uses that are not listed for a district are not permitted.

Uses permitted within each zoning district are identified as those Permitted by Right (zoning decision by Zoning Administrator); Permitted by Special Exception (zoning decision by Zoning Hearing Board) and Permitted by Conditional Use (zoning decision by Board of Supervisors).

Some of the uses permitted must comply with certain criteria, which are set forth in Article 10, or in other areas of this chapter. The District Use Table identifies applicable sections (in parenthesis) that apply to each particular use. Note that these section numbers are provided for reference purposes only, and that all applicable regulations of this chapter apply, regardless of whether or not they are specifically referenced in the District Use Table.

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Key:	P = Permitted Use SE = Special Exception C = Conditional Use	A-1	A-2	R-1	R-2	MU	B-1	B-2
<b>Residential Uses</b>								
Single-Family Detached Dwellings		P	P	P	P	P		
Two-Family Dwelling			C	P	P	P		
Multiple-Family Dwelling (3 to 4 units)					P	P		
Multiple-Family Dwelling (5 or more units) (1002.34)					C	P		
Mobile Home Parks (1002.33)					C			
Age Restricted Housing Community (1002.54)				C	C	P		
Continuing Care Retirement Community (1002.55)				C	C	P	C	
Assisted Living Facility (1002.09)					C	P	P	
Bed and Breakfast Inns (1002.11)		C	C	C	C		P	
Boarding Houses and Group Quarters (1002.12)							C	
Treatment Center/Pre-Release Detention Facility						P		

<b>Conservation Subdivisions</b>								
		A-1	A-2	R-1	R-2	MU	B-1	B-2
Option 1: Neutral Density with Basic Conservation (Article 12)		P	P	P	P			
Option 2: Enhanced Density with Greater Conservation (Article 12)					P			
Option 3: Large Lot Option (Article 12)		P	P	P	P			

Key:	P = Permitted Use SE = Special Exception C = Conditional Use	A-1	A-2	R-1	R-2	MU	B-1	B-2
<b>Accessory Uses</b>								
Accessory Structures and Uses Customarily Incidental to Principal Use		P	P	P	P	P	P	P
Agricultural Employee Housing (1002.04)		C	C					
Agricultural Marketing Enterprise (1002.56)		P	P	P	P		P	P
Agritourism Enterprises (1002.57)		P	P	C			P	P
Farm Occupation (1002.58)		C	C	C			P	P
Home Based Business or Occupation (1002.27)		C	C	C	C	C		
Home-Based Business (No-Impact) (1002.28)		P	P	P	P	P		
Accessory Dwelling Units (1002.01)		P	P	P	P			
Accessory Solar Energy System (ASES) (Article 13)		P	P	P	P	P	P	P

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Non-Commercial Keeping of Poultry, Livestock and Equine Animals (1002.05)	P	P	P	P			
Outdoor Wood-fired Boilers (1002.35)	P	P	P				
Small Wind Turbines (see definition) (1002.53)	P	P	P				P
Special Events of a Temporary Nature (1002.48)	C	C			C	P	
Drive Through Facilities for Commercial Uses (1002.20)						P	P
Temporary Storage Units	P	P	P	P	P	P	P

<b>Non-Residential Uses</b>	A-1	A-2	R-1	R-2	MU	B-1	B-2
Adult Related Uses (1002.02)							C
Agriculture (1002.03)	P	P	P	P		P	P
Airports, Public (1002.06)						C	C
Airports (Ultralight Airports & Private Airstrips) (1002.07)		C	C				
Heliports and Helistops (1002.06)						C	C
Alternative Fuel Production							C
Animal Shelter (1002.08)						P	P
Auction House						P	P
Automobile/Vehicle Service and Repair Facilities (1002.10)						P	P
Banks/Financial Institutions					C	P	P
Breweries							C
Brew Pub					C	P	P
Business Services						P	P
Campgrounds and Recreational Vehicle Parks (1002.13)		C	C	C			
Car Wash Facilities (1002.14)						P	P
Cemeteries (1002.15)		C	C				
Child Day Care Center (1002.19)					C	P	
Child Day Care Home (Family) (1002.19)	P	P	P	P	C	P	
Child Day Care Home (Group) (1002.19)	C	C	C	C	C	P	
Commercial Recreation, Indoor					C	P	P
Commercial Recreation, Outdoor (1002.16)					C	P	P
<b>Key:</b> P = Permitted Use SE = Special Exception C = Conditional Use	<b>A-1</b>	<b>A-2</b>	<b>R-1</b>	<b>R-2</b>	<b>MU</b>	<b>B-1</b>	<b>B-2</b>
Communications Towers (used to deploy small wireless facilities (see definition) and/or towers not exceeding 50 feet in height)	P	P	P	P	P	P	P
Communications Towers (greater than 50 feet in height, and not used to deploy small wireless facilities) (1002.17)	SE	SE	SE	SE	SE	SE	P
Wireless Communications Facilities, Non-Tower	P	P	P	P	P	P	P
Contracting Operation						P	P

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Convenience Store/Automotive Fueling Station (1002.18)					C	P	P
Day Care Center for Adults (1002.19)					C	P	
Distilleries							C
Distillery, Micro (Micro-Distillery)					C	P	P
Distribution Centers							P
Dry Cleaning, Laundry Services and Laundromats					C	P	P
Emergency Medical Treatment Facility (1002.21)					P	P	P
Emergency Services Stations (1002.22)	C	C	C	C	C	P	P
Essential Services, Class 1	P	P	P	P	P	P	P
Essential Services, Class 2 (1002.23)	C	C	C	C	C	C	P
Farmer's Market (1002.24)	P	P			C	P	P
Flea Market (1002.24)						P	P
Forestry	P	P	P	P	P	P	P
Funeral Homes, Mortuaries and Crematoriums (1002.25)						P	
Garden Center						P	P
Golf Courses (1002.26)		P	P	P		P	P
Heavy Industry/Manufacturing							C
Hospitals (1002.43)						P	P
Hotels and Motels						P	P
Houses of Worship (1002.29)		C	C	C	C	P	
Hunting, Fishing, Skiing, Target Shooting and Boating Clubs or Resorts (1002.30)		C	C			C	C
Industrial Parks							P
Kennels (1002.08)		C	C			P	P
Laundry and/or Dry Cleaning Establishment (Industrial)							P
Libraries, Museums and Art Galleries					C	P	P
Light Industry/Manufacturing						C	P
Man-Made Lakes, Dams, Ponds and Impoundments (1002.31)	C	C	C	C			

Key:	<b>P = Permitted Use</b> <b>SE = Special Exception</b> <b>C = Conditional Use</b>							
	A-1	A-2	R-1	R-2	MU	B-1	B-2	
Manufactured/Mobile Home Sales Lot						P	P	
Medical Laboratory and/or Clinic					C	P	P	
Medical Marijuana Dispensary						P		
Medical Marijuana Grower/Processor							P	
Mineral Extraction, Surface Mining (1002.32)		C					C	
Mineral Processing							C	
Municipal Buildings and Structures	P	P	P	P	P	P	P	

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Natural Gas Compressor Station							C
Natural Gas Processing Plant							C
Natural Gas, Oil and Gas Development	P	P	C	C	C	P	P
Nursing Homes (1002.43)				C	C	P	
Offices (Medical, Dental, Business and Professional)					C	P	P
Parks and Playgrounds	P	P	P	P	P	P	P
Passenger Terminals						P	
Personal Services Establishments					C	P	P
Pet Grooming Establishment (1002.08)					C	P	P
Plant Nurseries and Greenhouses	P	P				P	P
Public Utility Buildings (1002.36;106 C)				C		P	P
Recycling Centers (1002.37)							P
Rental Services						C	P
Research Laboratory						C	P
Restaurants (1002.38)					C	P	P
Retail Business (less than 20,000 square feet) (1002.38)					C	P	P
Retail Business (20,000 square feet or greater) (1002.39)						C	C

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Key:	P = Permitted Use SE = Special Exception C = Conditional Use	A-1	A-2	R-1	R-2	MU	B-1	B-2
Riding Academy or Boarding Stable (1002.40)		P	P	P				
Sanitary Landfills (1002.41)								C
Sawmills (1002.42)								C
Schools, Elementary or Secondary (1002.43)				C	C	C		
Schools, College or University (1002.43)				C	C	C		
Schools, Commercial or Vocational (1002.43)				C	C	C	C	
Scrap (Junk or Salvage) Yard (1002.44)								C
Self-Storage Facilities (1002.45)							P	P
Slaughter House, Stockyard or Tannery								C
Social Clubs and Fraternal Organizations (1002.46)							P	
Principal Solar Energy System (PSES) (Article 13)	See Renewable Energy District Map.							
Solid Waste Processing, Transfer Stations and/or Disposal Facilities (1002.47)								C
State Game Lands			P	P				
Target Range or Paintball Facility, Indoor (1002.49)			C	C			C	C
Target Range, Outdoor (1002.49)			C	C			C	C
Paintball Facility, Outdoor (1002.49)			C					C
Taverns and Nightclubs (1002.50)							P	P
Treatment Center/Pre-Release Detention Facility (1002.51)								C
Truck and Heavy Equipment Sales, Service and Repair Services							C	P
Truck Terminal							C	P
Vehicle Sales, Rentals and Service (1002.52)							P	P
Veterinary Clinics (1002.08)						C	P	P
Wholesale, Warehouse and Storage Facilities							C	P
Wind Energy Facilities (Article 14)	See Renewable Energy District Map.							
Wineries		C	C	C			P	P

## Article 6 Lot Area, Yard and Height Regulations

### 601 General Requirements

- A. No yard or lot existing upon adoption of this Chapter shall be reduced in size or area below the minimum requirements of the zoning district within which it is located. Yards or lots created after the effective date of this Chapter shall meet the minimum requirements established by this Chapter.
- B. Yards shall be provided in accordance with the provisions of this Chapter and shall be planted with grass, seed, sod, ground cover, mulch or other pervious decorative or vegetative cover excepting in cases where walks, access drives, off-street parking lots, patios and other types of surfaces are permitted by this Chapter.
- C. The preservation of existing vegetation and natural wooded areas is permitted within the required yard areas.
- D. Emergency Access: All principal buildings shall have adequate provisions for access by emergency vehicles and fire ladders in order to reach all sides of a building.

### 602 Lot Area and Yard Requirements Tables

The Lot Area and Yard Requirements for each zoning district shall be in accordance with the following tables, unless specifically stated otherwise in this Chapter.

#### 602.01 A-1 Preservation District

<b>A-1, Preservation District Lot and Yard Requirements Table</b>		
	<b>Single-Family Dwelling</b>	<b>All Other Uses</b>
<b>Minimum Lot Area (1)</b>	2 acres	2 acres
<b>Minimum Lot Width (feet) (2)</b>	175	175
<b>Minimum Front Yard (feet) (3)</b>	50	50
<b>Minimum Rear Yard (feet)</b>		
Principal buildings and structures	40	40
Accessory buildings and structures	10	10
<b>Minimum Side Yard (feet) (4)</b>		
Total, both sides	24	24
One side	10	10

Notes

(1) The minimum lot area shall be calculated exclusive of the public right-of-way.

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- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) Side yard setbacks apply to all buildings and structures, both principal and accessory.

**602.02 A-2 Agricultural District**

<b>A-2, Agricultural District Lot and Yard Requirements Table</b>			
	<b>Single-Family Dwelling</b>	<b>Two-Family Dwelling</b>	<b>All Other Uses</b>
<b>Minimum Lot Area (1)</b>	1 acre	1 1/2 acres	1 1/2 acres
<b>Minimum Lot Width (feet) (2)</b>			
No public water or sewer	125	150	150
With either public water or sewer	110	125	150
<b>Minimum Front Yard (feet) (3)</b>	50	50	50
<b>Minimum Rear Yard (feet)</b>			
Principal buildings and structures	40	40	40
Accessory buildings and structures	10	10	10
<b>Minimum Side Yard (feet) (4)</b>			
Total, both sides	24	24	24
One side	10	10	10

Notes

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) Side yard setbacks apply to all buildings and structures, both principal and accessory.

**602.03 R-1, Rural Residential District**

<b>R-1, Rural Residential District Lot and Yard Requirements Table</b>			
	<b>Single- Family Dwelling</b>	<b>Two- Family Dwelling</b>	<b>All Other Uses</b>
<b>Minimum Lot Area (square feet) (1)</b>			
No public water or sewer	30,000	1 acre	1 acre
With either public water or sewer	20,000	30,000	1 acre
<b>Minimum Lot Width (feet) (2)</b>			
No public water or sewer	110	125	125
With either public water or sewer	95	110	125
<b>Minimum Front Yard (feet) (3)</b>			
	50	50	50
<b>Minimum Rear Yard (feet)</b>			
Principal buildings and structures	40	40	40
Accessory buildings and structures	10	10	10
<b>Minimum Side Yard (feet) (4)</b>			
Total, both sides	24	24	24
One side	10	10	10

Notes

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) Side yard setbacks apply to all buildings and structures, both principal and accessory.

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**602.04 R-2, Suburban Residential District**

<b>R-2, Suburban Residential District Lot and Yard Requirements Table</b>				
	<b>Single-Family Dwelling</b>	<b>Two-Family Dwelling</b>	<b>Multiple-Family Dwelling (4)</b>	<b>All Other Uses</b>
<b>Minimum Lot Area (square feet) (1)</b>				
No public water or sewer	20,000	30,000	32,000 sq.ft. plus 2,000 per d.u.	30,000
With either public water or sewer	15,000	20,000	28,000 sq.ft. plus 2,000 per d.u.	30,000
<b>Minimum Lot Width (feet) (2)</b>				
No public water or sewer	95	110	110 plus 4 per d.u.	110
With either public water or sewer	80	95	95 plus 2 per d.u.	110
<b>Minimum Front Yard (feet) (3)</b>				
	35	35	35	35
<b>Minimum Rear Yard (feet)</b>				
Principal buildings and structures	40	40	40 plus 2 per d.u. up to maximum of 100 feet.	40
Accessory buildings and structures	5	5	5	5
<b>Minimum Side Yard (feet) (5)</b>				
Total, both sides	20	20	20 plus 4 per d.u. up to maximum of 100 feet.	20
One side	8	8	8 plus 2 per d.u. up to maximum of 50 feet.	8

**Notes**

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) "d.u." means dwelling unit
- (5) Side yard setbacks apply to all buildings and structures, both principal and accessory.

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602.05 MU, Mixed Use District

MU, Mixed Use District Lot and Yard Requirements Table				
	Single-Family Dwelling	Two-Family Dwelling	Multiple-Family Dwelling (4)	All Other Uses
<b>Minimum Lot Area (square feet) (1)</b>				
No public water or sewer	20,000	30,000	32,000 sq.ft. plus 2,000 per d.u.	30,000
With either public water or sewer	15,000	20,000	28,000 sq.ft. plus 2,000 per d.u.	30,000
<b>Minimum Lot Width (feet) (2)</b>				
No public water or sewer	95	110	110 plus 4 per d.u.	110
With either public water or sewer	80	95	95 plus 2 per d.u.	110
<b>Minimum Front Yard (feet) (3)</b>				
	35	35	35	35
<b>Minimum Rear Yard (feet)</b>				
Principal buildings and structures	40	40	40 plus 2 per d.u. up to maximum of 100 feet.	40
Accessory buildings and structures	5	5	5	5
<b>Minimum Side Yard (feet) (5)</b>				
Total, both sides	20	20	20 plus 4 per d.u. up to maximum of 100 feet.	20
One side	8	8	8 plus 2 per d.u. up to maximum of 50 feet.	8

Notes

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) "d.u." means dwelling unit
- (5) Side yard setbacks apply to all buildings and structures, both principal and accessory.

**602.06 B-1, Business District**

<b>B-1, Business District Lot and Yard Requirements Table</b>	
<b>Minimum Lot Area (square feet) (1)</b>	
No public water or sewer	1 acre
With either public water or sewer	30,000
With both public water and sewer	20,000
<b>Minimum Lot Width (feet) (2)</b>	
No public water or sewer	110
With either public water or sewer	95
With both public water and sewer	80
<b>Minimum Front Yard (feet) (3)</b>	
	50
<b>Minimum Rear Yard (feet)</b>	
Principal buildings and structures	20
Accessory buildings and structures	10
Parking and access drive	5
<b>Minimum Side Yard (feet) (4)</b>	
Total, both sides	20
One side	10
Parking and access drive	5

Notes

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) Side yard setbacks apply to all buildings and structures, both principal and accessory.
- (5) Reference Section 702 regarding Buffering.

**602.07 B-2, Business District**

<b>B-2, Business District Lot and Yard Requirements Table</b>	
<b>Minimum Lot Area (1)</b>	
No public water or sewer	2 acres
With either public water or sewer	1.5 acres
With both public water and sewer	1 acre
<b>Minimum Lot Width (feet) (2)</b>	
No public water or sewer	150
With either public water or sewer	130
With both public water and sewer	110
<b>Minimum Front Yard (feet) (3)</b>	
	50
<b>Minimum Rear Yard (feet)</b>	
Principal buildings and structures	20
Accessory buildings and structures	10
Parking and access drive	5
<b>Minimum Side Yard (feet) (4)</b>	
Total, both sides	24
One side	10
Parking and access drive	5

Notes

- (1) The minimum lot area shall be calculated exclusive of the public right-of-way.
- (2) The minimum lot width shall be the required width at the building line (minimum front yard distance) and the required lot frontage at the public right-of-way.
- (3) Measured from the street right-of-way line.
- (4) Side yard setbacks apply to all buildings and structures, both principal and accessory.
- (5) Reference Section 702 regarding Buffering.

### 603 Residential Density Standards

The maximum number of dwelling units (du) shall be as follows, unless specifically stated otherwise in this Chapter.

Zoning District	Residential Use	Minimum Lot Area Per Dwelling Unit (du)	Maximum Number of Dwelling Units (du) (see notes)
<b>A-1 Preservation</b>			
	All Residential Uses	2 acres	1 du per 2 acres of net lot area
<b>A-2, Agricultural</b>			
	Single-Family Dwelling	1 acre	1 du per 1 acre of net lot area
	All Other Residential Uses	30,000 square feet	1 du per 30,000 sq.ft. of net lot area
<b>R-1, Rural Residential</b>			
No public water or sewer	Single-Family Dwelling	30,000 square feet	1 du per 30,000 sq.ft. of net lot area
	All Other Residential Uses	20,000 square feet	1 du per 20,000 sq.ft. of net lot area
With either public water or sewer	Single-Family Dwelling	20,000 square feet	1 du per 20,000 sq.ft. of net lot area
	All Other Residential Uses	15,000 square feet	1 du per 15,000 sq.ft. of net lot area
<b>R-2, Suburban Residential</b>			
No public water or sewer	Single-Family Dwelling	20,000 square feet	1 du per 20,000 sq.ft. of net lot area
	Two-Family Dwelling	15,000 square feet	1 du per 15,000 sq.ft. of net lot area
	All Other Residential Uses	32,000 sq.ft. plus 2,000 per each dwelling unit	6 du per acre
With either public water or sewer	Single-Family Dwelling	15,000 square feet	1 du per 15,000 sq.ft. of net lot area
	Two-Family Dwelling	10,000 square feet	1 du per 10,000 sq.ft. of net lot area
	All Other Residential Uses	28,000 sq.ft. plus 2,000 per each dwelling unit	8 du per acre
<b>MU, Mixed Use</b>			
No public water or sewer	Single-Family Dwelling	20,000 square feet	1 du per 20,000 sq.ft. of net lot area
	Two-Family Dwelling	15,000 square feet	1 du per 15,000 sq.ft. of net lot area
	All Other Residential Uses	32,000 sq.ft. plus 2,000 per each dwelling unit	6 du per acre
With either public water or sewer	Single-Family Dwelling	15,000 square feet	1 du per 15,000 sq.ft. of net lot area
	Two-Family Dwelling	10,000 square feet	1 du per 10,000 sq.ft. of net lot area
	All Other Residential Uses	28,000 sq.ft. plus 2,000 per each dwelling unit	8 du per acre

Notes:

- (1) See Section 602 for minimum lot area requirements.
- (2) Net lot area is the total lot area excluding any public rights-of-way.
- (3) "d.u." means dwelling unit
- (4) The maximum number of dwelling units does not include accessory dwelling units (ADU) permitted in accordance with this chapter.
- (5) See Section 610 for the number of principal buildings per lot.
- (6) The maximum density of mobile home parks shall comply with the North East Township Subdivision and Land Development Ordinance.
- (7) The maximum number of dwelling units permitted for conservation subdivisions shall be in accordance with Section 1207 of this chapter.

### 604 Frontage onto Public Right-of-Way

Frontage required onto public right-of-way shall comply with the following:

- A. Each proposed new lot shall directly abut one of the following: a) a public street, not including an “alley,” b) a street proposed to be dedicated to the municipality by the subdivision plan which created such lot, or (c) an existing (at date of adoption of this Chapter) private street which meets all of the requirements of a public street.
- B. Access to lots containing single-family dwellings and access to lots containing multiple family developments of less than 5 units shall be via driveways and access to lots containing other uses shall be via access drives.
- C. The erection of a principal building on any lot which existed at the time of the enactment of this Chapter and does not have frontage on a public right-of-way shall be permitted if the applicant provides proof of access to the property in the form of a legal document recorded at the Erie County Recorder of Deeds. If the existing document does not address access rights and maintenance responsibilities between the landowner and effected parties, or if no such document exists, a new document shall be recorded that does address these issues. In addition, the landowner shall enter into a binding legal agreement with the municipality prepared by the municipality’s solicitor outlining the responsibility of each party as it pertains to the private right-of-way.

### 605 Clear Sight Triangle

- A. In a clear sight triangle, no walk, fence, sign or other structure shall be erected or altered, and no hedge, tree, shrub or other growth shall be maintained or permitted between 3’ and 8’ above the street grade which may cause danger to traffic or a street or public road by obscuring the view.
- B. The clear sight triangle shall be a triangular area of unobstructed vision on corner lots formed by a sight line of one hundred fifty (150) feet along the centerline of an arterial street, one hundred twenty (120) feet along the centerline of a collector street and eighty (80) feet along the centerline of a local street from the centerline intersections. When an arterial or collector and a local street intersect, each shall retain its respective footage requirements along the centerline to form the sight triangle.

### 606 Maximum Lot Coverage Standards

- A. Maximum Lot Building Coverage: The maximum lot building coverage shall include the total of all buildings, both principal and accessory. Unless specifically stated otherwise in this Chapter, the maximum permitted lot coverage by buildings shall be as follows:

Zoning District	Maximum Lot Building Coverage
A-1, Preservation	10%
A-2, Agricultural	20%
R-1, Rural Residential	30%
R-2, Suburban Residential	40%
MU, Mixed Use	40%

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B-1, Business	50%
B-2, Business (High Impact)	60%

- B. Maximum Impervious Lot Coverage: Unless specifically stated otherwise in this Chapter, the maximum permitted lot coverage by an impervious surface(s) shall be eighty percent (80%) within the MU, Mixed Use; B-1, Business; and B-2, Business districts.

## 607 Yard Adjustment Regulations

### 607.01 Front Yards

- A. Each lot shall have a front yard setback as required in the district in which the lot is located.
- B. The minimum front yard setback required for lots fronting on an arterial road shall be in accordance with the underlying zoning district or fifty (50') feet, whichever is greater.
- C. On corner or double frontage lots each side of a lot having a street frontage shall meet the required front yard setback and shall be subject to all front yard requirements of this Chapter.
- D. Front Yard Setback Exception: Where a structure exists on an adjacent lot and is within one hundred fifty (150) feet of either or both sidelines of a lot, and the existing structure has a front yard less than the minimum depth required, the minimum front yard shall be the average depth of the front yard of the existing structure on the adjacent lot and the minimum depth required for the district; where structures exist on both adjacent lots, the minimum depth of the front yard shall be the average depth of the front yards of the existing adjacent structures.

### 607.02 Interior Yards

In cases where more than one principal building is located on a lot in single ownership, open space between the principal buildings shall be provided as follows, unless otherwise stipulated in this Chapter.

- A. In cases where one story buildings are parallel to each other or obliquely aligned, there shall be a minimum distance of fifty (50') feet between the front or rear faces. For buildings greater than one story in height, the distance shall be increased five (5') feet for each additional story.
- B. There shall be a minimum distance of twenty-five (25') feet between end (side) walls of adjacent, one-story buildings. For buildings greater than one story in height, the distance shall be increased five (5') feet for each additional story.
- C. There shall be a minimum distance of thirty (30') feet between end (side) wall of a one-story building and the front or rear face of an adjacent one-story building, For buildings greater than one story in height, the distance shall be increased five (5') feet for each additional story.
- D. In cases where two (2) adjacent buildings differ in the number of stories, the minimum distance between the buildings shall be one-half of the sum of the distance that would be required between two (2) buildings of the lower height, plus the distance that would be required between two buildings of the greater height.
- E. The minimum distance separating multiple family buildings from non-residential uses shall be not less than seventy-five (75') feet between buildings.

**607.03 Projection in Yards**

- A. Patios, terraces or decks constructed at grade level and with no roof or walls may extend into any required yard space; provided, that at no time may a roof be constructed over, or any walls constructed upon or around, any portion of the patio, terrace or deck that is located beyond the required building setback lines.
- B. Cornices, eaves, sills or other similar architectural features, gutters, bay windows, chimneys, or similar structures, may project into the front, rear or side yard of a lot, not more than eighteen (18) inches.
- C. Exterior stairways, fire escapes or other required means of egress, ground-mounted doors for basement access, window awnings, chase for heating pipes or other similar structures that do not include space usable by persons may extend or project into a required yard.
- D. Covered porches and patios, whether enclosed or unenclosed, shall be considered as part of the principal building and shall meet all yard requirements for a principal building.
- E. Walks, and window wells, and such other structures customarily incidental to the principal building may project into the front, side or rear yards of a lot providing the structure elevation shall be not more than twelve (12") inches above the yard grade.
- F. Handicapped ramps and landings necessary to provide entrance to a building may be located within a required setback area. Handicapped ramps serving an existing building may extend into a street right-of-way where necessary, if granted written approval by the Zoning Administrator.
- G. Fences and walls may be erected, altered and maintained within the required yard setbacks provided that they comply with Section 701.02 this Chapter.

**607.04 Residential Setbacks from Agricultural Districts**

Notwithstanding any provisions of this chapter to the contrary, residential structures shall have a minimum setback of 50 feet from the boundary of an A-1, Preservation or A-2, Agricultural District.

**607.05 Minimum Setback Requirements from Streams and Creeks**

- A. No construction or excavation shall occur closer than 50 feet to the top of the bank of 12 Mile Creek, 16 Mile Creek, and 20 Mile Creek. The minimum setback from all other streams and creeks shall be 50 feet back from the top of the bank, unless a permit is obtained from the Pennsylvania Department of Environmental Protection authorizing a lesser setback.
- B. Notwithstanding Section 607.05 (A), above, no non-residential construction or excavation shall occur closer than 100 feet to the top of the bank of 12 Mile Creek, 16 Mile Creek, and 20 Mile Creek. The minimum setback from all other streams and creeks shall be 100 feet back from the top of the bank, unless a permit is obtained from the Pennsylvania Department of Environmental Protection authorizing a lesser setback.

### 608 Height Regulations

- A. Unless specifically stated otherwise in this Chapter, the maximum height permitted shall be as follows:

Zoning District	Maximum Height (feet)
A-1, Preservation	35
A-2, Agricultural	35
R-1, Rural Residential	35
R-2, Suburban Residential	40
MU, Mixed Use	40
B-1, Business	35
B-2, Business (High Impact)	50

- B. Height Regulation Exceptions

1. The height of any building or structure may exceed the maximum permitted height by one foot for each additional foot by which the width of each yard (front, side and rear yards) exceeds the minimum yard regulation for the district in which the building or structure is located. However, such increase shall be limited to no more than ten (10) additional feet in the R-1, Rural Residential and R-2, Suburban Residential districts.
2. Height regulations shall not apply to barns or silos intended for farming operations, skylights, steeples of houses of worship, antennas, spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, ventilators, water tanks, bulkheads, utility poles or towers, clock or bell towers, elevator shafts, mechanical equipment or other appurtenances usually required to be and customarily placed above roof level and not intended for human occupancy.
3. No building shall be hereafter erected less than one (1) story in height
4. See Section 1408 (H) for height limitations applicable to wind energy facilities.
5. See Article 9 for height limitations applicable to signs.
6. All buildings and structures shall conform to applicable regulations of Article 11, Airport Zoning Regulations and/or regulations relative to objects affecting navigable air space.

### 609 Number of Principal Uses and Principal Buildings per Lot

- A. A lot within a non-residential district may include more than one permitted principal use per lot and/or more than one permitted principal building per lot, provided that every requirement is met for each use and each building. The following criteria also apply:
1. If differing dimensional requirements apply for different uses on the lot, then the most restrictive requirement shall apply. For example, if Use One requires a one-acre minimum lot area and Use Two on the same lot requires a 2-acre minimum lot area, then the lot shall have a minimum lot area of 2 acres.
  2. In districts that permit both residential and non-residential uses, no more than one (1) single family detached dwelling shall be permitted on any lot, except that, where permitted, a manufactured/mobile home park, age restricted housing community,

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continuing care retirement community, or residential condominium development may include more than one single family detached dwelling per lot, provided all other requirements of this Chapter are met.

3. The lot may include a condominium form of ownership of individual buildings, with a legally binding property-owner's association, if the applicant proves to the satisfaction of the Zoning Administrator, based upon review by the Municipal Solicitor, that there will be appropriate legal mechanisms in place and compliance with applicable State law.
- B. A lot within a residential district shall not include more than one principal use and shall not include more than one principal building unless specifically permitted by this Chapter, or unless a conditional use is approved by the Board of Supervisors.
1. A manufactured/mobile home park, age restricted housing community, continuing care retirement community, or residential condominium development may include more than one principal building per lot, provided all other requirements of this Chapter are met.
  2. A multi-family residential development with three (3) or more units may include more than one principal building per lot, provided all other requirements of this Chapter are met, except that no more than one (1) single family detached dwelling shall be permitted.
  3. In residential districts that permit agriculture as a principal use, agriculture shall be permitted as a second principal use on a lot, and agricultural buildings shall be permitted as additional principal buildings, provided that all other requirements of this Chapter are met. See Section 505, District Use Table.
  4. A condominium form of ownership of individual dwelling units, with a legally binding homeowners or other association, may be established if the applicant proves to the satisfaction of the Zoning Administrator, based upon review by the Municipal Solicitor, that there will be appropriate legal mechanisms in place and compliance with applicable State law.

### **610 Bluff Area Setbacks**

Minimum bluff area setbacks shall be in accordance with the North East Township Bluff Setback Ordinance (Ordinance No. 83-004, as amended). Refer to Chapter 94, Bluff Area Setbacks of the North East Township Code of Ordinances.

### **611 Flag Lots**

Flag lots shall be allowed in all districts, subject to the following:

- A. Flag lots shall meet all requirements of the North East Township Subdivision and Land Development Ordinance.
- B. Flag lots shall only be permitted for lots of one (1) acre or more in areas with public water and sewer availability; two (2) acres or more in areas with either water or sewer availability; and five (5) acres or more in areas without public water and sewer availability. However, in no case shall the lot area be less than the minimum lot area required by the underlying zoning district.
- C. For residential developments, flag lots shall have a minimum lot frontage of fifty (50') feet measured at the street right-of-way line.
- D. For non-residential developments, flag lots shall have a minimum lot frontage of sixty (60') feet measured at the street right-of-way line.
- E. Flag lots shall not abut another flag lot, and "stacked" flag lots shall not be permitted, i.e. one lot behind a proposed or current (existing) flag lot.
- F. The lot line where the narrow access corridor widens shall be considered the front lot line for applying setback requirements.
- G. The lot minimum area, width and depth-to-width ratio requirements shall be based on the main portion of the lot and shall not include the access corridor.

## Article 7 General Regulations

### 701 Accessory Buildings or Structures

#### 701.01 General Requirements

- A. All accessory buildings and structures shall comply with all applicable lot, yard and height regulations in this Chapter.
- B. An accessory building or structure shall not be erected, set, or placed in the required front yard setback of any zoning district, with the exception of security guard stations, outdoor lighting fixtures or as otherwise permitted by this Chapter.
- C. Mailboxes, newspaper boxes, fences, walls, birdhouses, flagpoles, and pump covers may be placed in any required front, side or rear yard.
- D. Signs shall be erected, set, or placed in accordance with Article 9, Signs.
- E. Notwithstanding any provisions of this Chapter to the contrary, doghouses and dog related structures shall be placed in rear yards only.
- F. No accessory building or structure shall be constructed upon a lot until construction of the principal building has been actually commenced and, except as provided elsewhere in this Chapter, no accessory building or structure shall be used for living space.
- G. All accessory buildings and structures shall be erected, set or placed in accordance with adopted building codes
- H. No more than two accessory buildings having an area of 120 square feet of gross floor area or less shall be authorized on any residential lot located within the R-1 Residential, R-2 Residential, or MU Mixed Use Districts.
- I. No accessory building or structure (including in-ground swimming pools, patios and decks) shall be located or erected within 10 feet of the boundary of any public utility easement or easement interest that has been granted to the Municipality or to a municipal authority or of the boundary of any stormwater detention or retention facility or like facility.
- J. In no case shall a detached private garage or accessory building be located closer than 10 feet to a dwelling located on an adjoining lot.

#### 701.02 Fences and Walls

- A. Fences and walls shall be permitted as an accessory use in all zoning districts. Any fence or wall shall be durably constructed and well-maintained. Fences or walls that have deteriorated shall be replaced or removed.
- B. No fence, wall or hedge shall obstruct the clear-sight triangle requirements of this Chapter.
- C. No fence, wall, or structure shall be permitted or erected in a public or private drainage, utility or access easement, unless otherwise required by this Chapter or other North East Township ordinance. Any such fence erected in violation of this section shall be removed or relocated at the owner's expense.
- D. Fences shall comply with the following unless a conditional use is approved by the Township:
  - 1. Any fence located within a front yard in a residential district or within the MU, Mixed Use District shall:

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- a. be an open-style fence (such as picket, metal post, wrought iron or split rail) with a minimum ration of 1:1 of open structural areas.
  - b. not exceed thirty-eight inches (38") in height.
  - c. not be constructed of chain link metal. Fences are encouraged to be constructed using weather resistant wood, vinyl materials that resemble wood, or vinyl materials that resemble historic style metal post fences.
2. Within a residential district or within the MU Mixed Use District, on a corner lot at the intersection of two (2) streets, the maximum height of a fence shall be thirty-eight inches (38") along the street from which the residence takes its address. The maximum height in other yards shall be six and a half feet (6.5'), all subject to Section 701.02 (B) above.
  3. Brick may be used for posts or as a base for a fence, provided the maximum fence height is not exceeded.
  4. A fence shall not be required to comply with minimum setbacks for accessory structures.
  5. With the exception of fences located within the B-1 Business or B-2 Business districts, all fences shall have a maximum height of six and a half feet (6.5') unless specified otherwise by this chapter.
  6. Fences within the B-1 Business or B-2 Business districts shall have a maximum height of eight and a half feet (8.5'), unless specified otherwise by this chapter.
  7. A maximum height of twelve feet (12') shall be permitted where the applicant proves to the Zoning Administrator that such height is necessary to protect public safety around a specific hazard, such as around an electric substation.
  8. A maximum fence height of twelve feet (12') shall be permitted around the perimeter of a tennis court, basketball court or similar recreational facility.
  9. Structural posts of a fence may extend above the height of the fence.
  10. All fence heights shall be measured from the average surrounding ground level.
  11. No fence shall be built within an existing street right-of-way.
  12. A fence may be built without a setback from a lot line; however, a small setback is recommended to provide future maintenance of the fence.
  13. Barbed wire shall not be used as part of fences around dwellings.
  14. If one side of a fence includes posts or supports, those posts or supports shall be placed on the interior of the fence, as opposed to facing onto a street or another lot.
  15. If a fence is finished only on one side, the finished side shall face outward away from the lot or parcel upon which it is located.
- E. Walls shall comply with the following unless a conditional use is approved by the Township:
1. Engineered retaining walls necessary to hold back slopes are exempted from the regulations of this Section and are permitted by right as needed in all zoning districts.
  2. Walls, except a retaining wall, within a front yard in a residential district or within the MU Mixed Use District shall have a maximum height of thirty-eight inches (38"). Within a residential district or within the MU Mixed Use District, on a corner lot at the intersection of two (2) streets, the maximum height of a wall shall be thirty-eight inches (38") along the street from which the residence takes its address; the maximum in other yards shall be six feet (6'), all subject to Section 701.02 (B) above.

3. Walls that are structurally part of a building shall be regulated as part of that building.
4. All wall heights shall be measured from the average surrounding ground level.
5. With the exception of walls located within the B-1 Business or B-2 Business districts, all walls shall have a maximum height of six feet (6') unless specified otherwise by this chapter.
6. Walls within the B-1 Business or B-2 Business districts shall have a maximum height of eight feet (8'), unless specified otherwise by this chapter.
7. A maximum height of twelve feet (12') shall be permitted where the applicant proves to the Zoning Administrator that such height is necessary to protect public safety.

#### **701.03 Swimming Pools (private residential)**

Where permitted, private swimming pools, including above-ground and in-ground pools, shall comply with the following conditions and requirements:

- A. The pool shall be intended and used solely for the enjoyment of the occupants of the property on which it is located.
- B. The pool may be located only in the rear yard or side yard of the property on which it is an accessory use.
- C. The pool, including any above-ground decking, shall not be located closer than 7 feet from any property line of the property and/or not closer than 10 feet from the boundary of any public easement affecting the property.
- D. The pool area or the entire property on which the pool is located shall meet the barrier requirements as established in the Pennsylvania Construction Code.

#### **702 Buffer Yards and Buffer Planting Strips**

Buffer yards and planting strips required by this section are intended to integrate new development with its surroundings, to separate incompatible land uses, to provide spacing to reduce the adverse impacts of noise, light, odor, views of unsightly buildings or parking areas, and danger from fire or explosion.

##### **702.01 Applicability**

Buffer yards and buffer planting strips shall be required for the following types of land developments commencing after the effective date of this chapter, and as otherwise specified within this chapter.

- A. Any new commercial, industrial or institutional land development that abuts a residential zoning district.
- B. Any new commercial, industrial or institutional land development that abuts Route 5, Route 20 or Route 89.
- C. Any expansion of an existing commercial, industrial or institutional land development that increases gross floor area by fifty percent (50%) or greater, and that abuts a residential zoning district.
- D. Any expansion of an existing commercial, industrial or institutional land development that increases gross floor area by fifty percent (50%) or greater, and that abuts Route 5, Route 20 or Route 89.
- E. Any new multiple family residential development that consists of 10 or more dwelling units.

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- F. Any new multiple family residential development that consists of 5 or more dwelling units and that abuts Route 5, Route 20 or Route 89.
- G. Any expansion of an existing multiple family residential development that results in a total of 10 or more dwelling units.
- H. Any expansion of an existing multiple family residential development that results in 5 or more dwelling units and that abuts Route 5, Route 20 or Route 89.
- I. New mobile home parks or expansions of an existing mobile home park.
- J. Buffer yards and buffer planting strips may be required by the Zoning Hearing Board or governing body, as the case may be, as a condition for approval of a special exception or conditional use.

**702.02 Buffer Types and Minimum Requirements**

A. The buffer type and minimum dimensional and planting requirements shall be determined by the intensity of the proposed land use and the adjacent zoning district or land use. Requirements shall be in accordance with the following table, or as otherwise specified within this chapter.

<b>Proposed Land Use</b>	<b>Adjacent Use or District</b>	<b>Minimum Buffer Yard Width (feet)</b>	<b>Minimum Buffer Planting Strip Width (feet)</b>	<b>Buffer Type</b>
Commercial, Institutional or Light Industrial (not exceeding 20,000 square feet of gross floor area)	R-1 or R-2	25	15	2
Commercial, Institutional or Light Industrial (greater than 20,000 square feet, but not exceeding 40,000 square feet of gross floor area)	R-1 or R-2	50	15	2
Commercial, Institutional or Light Industrial (greater than 40,000 square feet, but not exceeding 100,000 square feet of gross floor area.)	R-1 or R-2	50	20	3
Commercial, Institutional or Light Industrial (greater than 100,000 square feet of gross floor area)	R-1 or R-2	100	30	3
Commercial, Institutional or Light Industrial	Route 5, Route 20 or Route 89	50	15	1
Multi-Family (10 or more units)	Required along all property lines and road right-of-way, regardless of zoning district.	25	15	1
Multi-Family (5 or more units)	Route 5, Route 20 or Route 89	50	15	1
Mobile Home Parks	Required along all property lines and road right-of-way, regardless of zoning district.	25	15	2
Heavy Industrial	Any zoning district other than B-2	100	30	3
Heavy Industrial	Any public road right-of-way.	100	30	3

**B. Buffer Yard Type 1 (Softening Buffer):**

1. Type 1 buffers shall contain plant materials which, at maturity, will provide an intermittent visual obstruction from the ground to a height of four feet as well as intermittent visual obstruction from a height of four feet to a height of 30 feet.
2. The grouping of plant materials is encouraged to achieve a more natural appearance. Trees may be clustered or spaced unevenly.
3. The minimum requirements for a type 1 buffer are as follows. Additional plant material, grading treatments, or architectural elements may be included at the applicant's discretion.
  - a. One shade tree per 50 linear feet of buffer planting strip. Shade trees shall have a minimum two-inch caliper and six-foot planting height.
  - b. One evergreen tree per 40 linear feet of buffer planting strip. Evergreen trees shall have a minimum five-foot planting height.
4. Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer. If gaps occur in the natural setting of vegetation, as determined by the Zoning Administrator, new plant materials shall be required to achieve the necessary density levels.

**C. Buffer Yard Type 2 (Filtering Buffer):**

1. Type 2 buffers shall contain plant materials which, at maturity, provide a semi-opaque screen from the ground to a height of six feet and an intermittent visual obstruction from a height of six feet to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; and vegetative screening material within semi-opaque areas shall contain openings no greater than 15 feet in width upon the plant's maturity.
2. The grouping of plant materials is encouraged to achieve a more natural appearance. Trees and shrubs may be clustered or spaced unevenly.
3. The minimum requirements for a type 2 buffer are as follows. Additional plant material, grading treatments, or architectural elements may be included at the applicant's discretion.
  - a. One shade tree per 40 linear feet of buffer planting strip. Shade trees shall have a minimum two-inch caliper and six-foot planting height.
  - b. One evergreen tree per 30 linear feet of buffer planting strip. Evergreen trees shall have a minimum five-foot planting height.
  - c. One deciduous or evergreen shrub per 20 linear feet of buffer planting strip. Shrubs shall have a minimum 18-inch planting height, and should reach a minimum of 30 inches within two years. All shrubs (deciduous and evergreen) shall have a minimum spread of 12 inches when planted.
4. Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer. If gaps occur in the

natural setting of vegetation, as determined by the Zoning Administrator, new plant materials shall be required to achieve the necessary density levels.

D. **Buffer Yard Type 3 (Screening Buffer):**

1. Type 3 buffers shall contain plant and/or screening materials which, at maturity, will provide an opaque screen from the ground to a height of 30 feet. Vegetative screening materials shall contain no horizontal openings upon plants' maturity.
2. Trees and shrubs may be clustered or spaced unevenly, as long as an opaque screen is achieved.
3. The minimum requirements for a type 3 buffer are as follows. Additional plant material, grading treatments, or architectural elements may be included at the applicant's discretion.
  - a. One shade tree per 30 linear feet of buffer planting strip. Shade trees shall have a minimum two-inch caliper and six-foot planting height.
  - b. One evergreen tree per 10 linear feet of buffer planting strip. Evergreen trees shall have a minimum five-foot planting height.
  - c. One deciduous or evergreen shrub per 10 linear feet of buffer planting strip. Shrubs shall have a minimum 18-inch planting height, and should reach a minimum of 30 inches within two years. All shrubs (deciduous and evergreen) shall have a minimum spread of 12 inches when planted.
4. Type 3 buffers shall be adequate to visually screen the proposed land use or development from off-site view. Grading treatments and architectural features, such as walls, fences and/or naturally undulating berms may be used in addition to the minimum planting requirements in order to effectively provide a visual screen.
5. Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer. If gaps occur in the natural setting of vegetation, as determined by the Zoning Administrator, new plant materials shall be required to achieve the necessary density levels

**702.03 Relief from Buffer Requirements**

- A. In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and/or maintain the required buffer, the Board of Supervisors may alter the requirements of this Section provided the spirit and intent of the buffer requirements as outlined in this Section are maintained. Such an alteration may occur only at the request of the property owner, who shall submit a plan to the municipality showing existing site features that would screen the proposed use and any additional screen materials the property owner will plant or construct to screen the proposed use. The Board of Supervisors shall not approve any relief from buffer and/or screening requirements unless the property owner demonstrates that existing site features and any additional buffer materials will screen the proposed use as effectively as the required screen.

- B. The Board of Supervisors may approve an alternative method of buffering and screening as a conditional use, provided the applicant demonstrates to the satisfaction of the Board of Supervisors that the alternative method will satisfactorily mitigate conflicts between uses and provide an attractive appearance.

#### **702.04 Buffer Yard and Buffer Planting Strip Design Standards**

- A. Buffer yards and buffer planting strips, where required, shall be designed to assure the protection of adjoining land uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier by blocking physical passage to dangerous areas; and reduce air pollution, dust and litter; and to otherwise maintain and protect the character of the area.
- B. Buffer yards shall be a continuous, pervious area planted and maintained with trees, shrubs, grass, ground cover or other landscaping material. No paving shall be permitted within the buffer yard except as needed for driveway/access way crossings and/or pedestrian walk-ways.
- C. The buffer area shall be free of structures, dumpsters, commercial or industrial storage or display, manufacturing or processing activity, materials, loading and unloading areas or vehicle parking or display. Signs shall be permitted in a buffer yard fronting on a public road, provided they are in compliance with all applicable requirements of this chapter.
- D. Buffer yards may be used for controlled passive recreational purposes, but all other uses, including off-street parking, storage, loading and unloading, are prohibited.
- E. Location of Buffer Yards and Planting Strips: In cases where buffer yards and/or buffer planting strips are required by this chapter, the following shall apply:
  - 1. Buffer yards shall extend along the entire length of the property line abutting the adjacent land use or zoning district.
  - 2. Buffer yards shall be located along the outer perimeter of a lot or parcel and shall extend to the lot or parcel boundary line. Buffer yards may coincide within required building setback areas.
  - 3. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way nor any access drive serving a lot or parcel.
  - 4. Buffer planting strips shall be located within the required buffer yard, and shall be landscaped with trees and shrubs in accordance with the requirements of this chapter.
- F. Where woodlands, floodplains and drainage ways, and wetlands are in the buffer yard, the following rules shall apply:
  - 1. Developers are encouraged to leave woodland areas undisturbed and incorporate them into any required buffer areas.
  - 2. Floodplain and drainage ways shall be treated as any other buffer yard except that all plant material shall be tolerant of very wet conditions.
  - 3. Wetland areas in buffer yards shall be protected in accordance with PA DEP requirements. Plantings shall be selected that meet the intent of the size and types required but are tolerant of the wetland conditions.
- G. Walls and Fences Located Within Buffer Yards:
  - 1. Any wall shall be constructed in a durable fashion with a finish surface of brick, stone or other decorative masonry material approved by the municipality.

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2. Fences shall be constructed of weather resistant wood or vinyl materials that resemble wood.
3. Walls and fences shall comply with all applicable requirements of Section 701.02, Fences and Walls, including the maximum height requirements.
4. Any fence or wall located in a buffer yard shall be placed on the inside of any required buffer planting strip so that the buffer planting strip is located between the exterior side of the fence or wall and the property line.
5. As a condition of any variance or special exception approval, the Zoning Hearing Board may require the installation of a fence or wall in addition to a buffer yard and buffer planting strip. As a condition of any land development approval or conditional use approval the governing body may require the installation of a fence or wall in addition to a buffer yard and buffer planting strip.
6. Security Fences: Land developments of a hazardous nature including quarries, junk yards, outside storage, towers, fuel storage, or similar industrial activities may choose to incorporate a security fence in the required buffer area. If chain link or similar fencing materials are used, the exterior side of the fence shall be landscaped with evergreen shrubs a minimum of three (3) feet in height and six (6) feet on center at installation.

#### 702.05 Planting Requirements

- A. All buffer yards, buffer planting strips and landscaping shall be installed on the subject tract at the time of its development.
- B. Trees, shrubs and other landscaping shall not encroach upon the adjoining property line at full maturity, and shall not obstruct a street or sidewalk.
- C. All clear site triangles shall be unobstructed, in accordance with the requirements of Section 605 of this chapter.
- D. All landscape plantings shall be selected, considering the proper species and growth characteristics, to ensure adequate health and character with the existing and proposed conditions, such as overhead utilities, light, moisture, tolerance of road salts, leaf and fruit litter and confinements.
- E. Where possible, a hardy mix of native tree, shrub, and grass species shall be utilized for landscaping, and in no case shall plants identified as invasive species be used.
- F. All materials planted shall be free from disease, installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth, properly guyed or staked, and planted in a manner that is not intrusive to utilities and/or pavement.
- G. Ground Cover: A form of ground cover shall be placed on all portions of buffer area surfaces not occupied by plant material. This may include: neatly mowed grass, low-lying plant material that does not exceed 12 inches in height at maturity, organic mulch materials, pine straw and crushed stone. Ground cover shall be spaced to allow for complete fill-in within one (1) year.

#### 702.06 Landscaping and Buffer Yard Maintenance

- A. It shall be the responsibility of the property owner or an association of property owners to permanently maintain required landscaping and buffer yards.

- B. Any plant material that does not live shall be replaced within one (1) year.
- C. In the event the property owner, or an association of property owners, or their heirs, successors, and assigns fail to maintain the required landscaping and buffer yards, the municipality may enter the property and take necessary and prudent action to maintain said landscaping and buffer yards, and charge the costs of maintenance and/or repairs to the property owner or association of property owners. However, the municipality is under no obligation to conduct said maintenance.

### 703 Dumpster Screening and Location

The following dumpster Screening and location requirements shall apply to commercial uses, industrial uses, institutional uses, multiple family residential uses with 10 or more dwelling units, and mobile home parks.

- A. Solid waste dumpsters shall be screened on all sides. Such screening shall consist of decorative masonry walls, solid weather-resistant wood fencing or fencing of a similar appearance (such as white vinyl vertical planks). Evergreen plantings are also encouraged in addition to the fence or wall. The fence or wall shall include a self-latching door or gate.
- B. Setback from Dwellings: An outdoor solid waste container with a capacity of over 25 cubic feet shall be kept the maximum distance that is feasible from any abutting dwelling, provided that the container is not in the minimum front yard setback area. In any case, an outdoor solid waste container shall be kept a minimum of 15 feet from an abutting dwelling. A solid waste dumpster shall not be located in a required front, side or rear yard setback or a required buffer yard.
- C. All waste containers shall be completely enclosed, and the lid shall be kept in place. The locations of all dumpsters shall be shown on all site plans and land development plans submitted to the municipality.
- D. This section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premises, or for recycling containers that do not involve garbage.

**Commented [JMM1]:** 11/9/23 Per PC, added clarification of use types. Twp does not desire to apply to low density residential or agricultural uses.

### 704 Exterior Lighting

Where light fixtures are installed to provide exterior illumination, excluding overhead street lighting and warning, emergency, or traffic signals, the following restrictions shall apply.

- A. All outdoor lighting, whether or not required by this Chapter, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as contained in the IESNA Lighting Handbook.
- B. All future amendments to the recommended practices of the IESNA shall be made a part of the Chapter without further action by the municipality.
- C. The lighting from any luminary shall be shaded, shielded, or directed to prevent direct light from being distributed onto adjacent properties and/or surrounding areas. Unshielded lighting is not permitted, except for temporary holiday lighting.
- D. Lighting on private property shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare).

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- E. Pole-mounted lamps shall be placed directly above the area to be illuminated and shielded at the top and sides; or positioned near the perimeter of a property and aimed toward the area requiring illumination, subject to applicable yard setback provisions.
- F. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of mounting height, wattage, aiming angle, fixture placement, etc.
- G. The installation or erection of any lighting, which may be confused with warning signals, emergency signals, or traffic signals, shall not be permitted.
- H. Lighting of parking lots shall be in accordance with this Chapter.
- I. Maintenance: Lighting fixtures shall be maintained so as to always meet the requirements of this Chapter.
- J. A site lighting design plan, including manufacturer's cut sheets of the lighting fixtures to be utilized, shall be provided to the Zoning Administrator prior to issuance of a zoning permit, unless the Zoning Administrator should determine that a site lighting design plan is not necessary.
- K. Exterior lighting illuminated outside the owner or occupant's normal business hours shall be reduced to the lowest level reasonably required for security reasons.
- L. Nonconforming Lighting: Any lighting fixture existing on the effective date of this Chapter which does not conform with the requirements of this Chapter shall be considered a lawful, nonconforming lighting fixture. A nonconforming lighting fixture shall be made to comply with the requirements of this Chapter when such fixture is replaced or relocated.
- M. Exceptions. The following are not subject to the regulations set forth in this Section 704:
  - 1. Any building having historic significance to North East Township or any building or structure specifically named in the National Register of Historic Places may maintain or replace in kind any period correct lighting fixture, provided the lumen output of the light source or luminaire is equal to or less than the fixture being replaced. If light levels are to be increased, then the upgrade must conform to the new lighting standards described in detail above.
  - 2. Municipal, school and college outdoor sports facilities.
  - 3. Temporary construction lighting.
  - 4. Temporary holiday lighting.
  - 5. Ornamental and architectural lighting of bridges, public monuments, statuary and public buildings.
  - 6. Municipal and state lighting for roads and highways

## 705 Storage

### 705.01 Temporary Storage Units

The use of temporary storage units, including those commercially known as "pods" or enclosed "containers" of a box trailer with or without wheels, shall be permitted on a temporary basis subject to the following:

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- A. Units shall be permitted for a maximum period of 60 consecutive days in any one calendar year. This period may be extended upon written request to the Zoning Administrator for a period not exceeding 180 days, except as provided for in Section 705.01 (B).
- B. Notwithstanding Section 705.01 (A), units used for temporary construction storage may be used for the period for which a valid building permit has been issued.
- C. Any enclosed “container” of a box trailer with wheels that is used for temporary storage shall be licensed, and shall be located in conformance with all applicable yard setback requirements for an accessory structure within the zoning district in which the property is located.
- D. The “container” of a box trailer, with or without wheels, shall not be used for permanent storage in any zoning district, except B-1 (Business) and B-2 (Business High-Impact).
- E. The use of former mobile homes, former semi-rigs, former buses or similar vehicles for temporary or permanent storage is not permitted in any zoning district.

**705.02 Recreational Vehicles & Recreational Equipment**

The parking, storage and/or occupancy of recreational vehicles and recreational equipment, as defined in Article 2, and including travel trailers, pickup coaches, motorized homes and boat trailers, shall be subject to the following criteria:

- A. The occupancy of recreational vehicles and recreational equipment for living, sleeping and/or housekeeping purposes shall be prohibited, except for as follows:
  - 1. The temporary occupancy of recreational vehicles and/or recreational equipment shall be permitted in conjunction with a legally permitted campground or recreational vehicle park for a period of time not exceeding 9 consecutive months or 9 months within a calendar year. The requirements of Section 705.02 (A, 2) do not apply to recreational vehicles and recreational equipment located within a legally permitted campground or recreational vehicle park.
  - 2. The temporary occupancy of recreational vehicles and/or recreational equipment shall be permitted, subject to the following conditions:
    - a. The temporary occupancy shall be for visitors and house guests only, and shall not be for commercial purposes.
    - b. The temporary occupancy period shall not exceed 14 consecutive days or 14 days within a calendar year unless a Zoning Permit is obtained, in accordance with Section 302.03 (C, 3), Zoning Permits for Temporary Uses and Structures.
    - c. Such vehicles and/or equipment, when used for temporary occupancy, shall be parked off-street, and shall comply with all applicable yard setback requirements for an accessory structure within the zoning district in which the property is located.
    - d. Such vehicles and/or equipment shall have self-contained sewage storage facilities and may not be connected to or discharge into permanent residential facilities (septic system or municipal sewer) and must be discharged at a licensed dumping station.
- B. Permanent parking and/or storage of recreational vehicles and recreational equipment shall be permitted in any zoning district subject to the following requirements. For purposes of this Section, permanent is defined as a period of time exceeding 90 consecutive days or 90 days within a calendar year.

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1. Except as provided for in Section 705.02 (A), above, parked and/or stored recreational vehicles and recreational equipment shall not be occupied or used for living or housekeeping purposes.
  2. Parking or storage of recreational vehicles and recreational equipment shall be limited to the interior of garages or other available on-lot accessory buildings, driveways, or that portion of the property located behind the principal building.
  3. Parking or storage of recreational vehicles and recreational equipment shall conform to all applicable yard setback requirements for an accessory structure within the zoning district in which the property is located.
  4. Within the R-1 and R-2 zoning districts, only one recreational vehicle may be stored outdoors on a lot, and the property owner or a resident of the property must own it.
- C. Derelicts: No recreational vehicles or recreational equipment shall be stored outdoors on a residential premises unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state. In no case shall any such equipment be so stored for a period of more than six months if not in condition for safe and efficient performance of the function for which it is intended.

**705.03 Parking & Storage of Unlicensed or Uninspected Motor Vehicles**

- A. Motor vehicles without current, valid license plates, or with inspection stickers which are more than sixty (60) days beyond their expiration dates, shall not be parked or stored in any zoning district, unless completely covered or unless stored within an enclosed building.
- B. The requirements of this section shall not be applicable to farm implements and other farm vehicles not normally used as a means of conveyance on public streets.
- C. Nothing in this section shall be interpreted to prevent the unenclosed storage of motor vehicles without current, valid license plates and current valid inspection stickers if such storage is performed in conjunction with the legal operation of a motor vehicle sales establishment, a motor vehicle service or repair establishment, or a junkyard.

**705.04 Outside Storage and Display**

- A. The outside storage and/or display of any material shall not occupy a street right-of-way, required parking area, buffer yard, sidewalk or other area intended or designed for pedestrian use.
- B. No outdoor stockpiling of any material shall be permitted in the required front yard setback area.
- C. No outside storage or display of any material shall occur on areas with a slope in excess of 25% or within the 100-year floodway.
- D. Outside storage of any materials on property which abuts any public right-of-way and/or any residential zoning district must be screened from view at all times.
- E. Outdoor storage of loose and/or bulk materials, such as sawdust, straw, leaves, or similar items shall be covered or shielded from the weather to ensure confinement to the site during periods of wind, and to prevent runoff onto adjacent properties during storm events.
- F. Any outside storage of more than fifty (50) used tires shall only be permitted as part of a municipality approved junkyard. Any outside storage of tires shall involve stacks with a maximum

height of 15 feet and shall cover a maximum area of 400 square feet. Each stack of tires shall be located a minimum of seventy-five feet (75') from all lot lines.

### 706 Performance Standards

- A. No use of land or structure in any district shall involve, or cause, any condition or material that may be dangerous, injurious, or toxic to any other property or person. Please note that some agricultural activities are protected by the Commonwealth's "Right to Farm" Laws.
- B. **Noise:**
  - 1. Except as provided for in Sections 706 (B, 2) and 706 (B, 3), no person shall operate, and no property owner or business shall permit to be operated, any noise source in such a manner as to create a sound pressure level which exceeds the limits set forth in the table below. The noise limits for each parcel of land shall depend upon the zoning district within which the parcel is classified. All activities shall operate within the limits set forth in the table. Noise levels shall be measured at any property line.

Zoning District	Time of Day	Maximum dBA	Maximum dBC
A-1 and A-2	24 hours	60	70
R-1, R-2 and MU	7:00 am – 10:00 pm	55	65
R-1, R-2 and MU	10:00 pm – 7:00 am	50	60
B-1	24 hours	60	70
B-2	24 hours	72	82

- 2. An increase in the maximum dBA and/or maximum dBC shall be permitted with the approval of a conditional use by the Board of Supervisors.
- 3. The following activities are exempt from noise limitations.
  - a. Lawn mowing or lawn maintenance activities during the hours of 8:00 a.m. and 8:00 p.m.
  - b. Snow removal
  - c. Construction activities
  - d. Emergency Services
  - e. Normal farming operations
  - f. Work associated with the repair or restoration of public services, including but not limited to water, gas, sewer, telephone and electric.
  - g. Noncommercial public speaking and public assembly activities conducted on any public space.
  - h. Outdoor gatherings, shows, and sporting or other entertainment events conducted between the hours of 7:00 a.m. and 10:00 p.m.
- C. All uses in any district must observe the following performance requirements.
  - 1. **Fire Protection:** Fire protection and fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive material is carried on. All set fires shall be in compliance with the North East Township Code of Ordinances, Chapter 111, Burning, Open.

2. **Electric Disturbance:** No activity shall cause electrical disturbances adversely affecting radio, television or other communication equipment in the neighboring area.
3. **Air Pollution/Smoke:** All air-borne emissions shall comply with the regulations of the Pennsylvania Department of Environmental Protection and the Environmental Protection Agency (US).
4. **Glare:** All exterior lighting shall comply with Section 704, Exterior Lighting.
5. **Water Pollution:** No permit shall be issued until all applicable wastewater, stormwater and erosion/sedimentation control permits have been obtained.
6. **Vibration:** No vibration shall be permitted which is discernible without instruments on any adjoining lot or property, except that a temporary vibration as a result of construction activity shall be permitted.
7. **Erosion:** No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.

#### **707 Encroachments into Rights-of-Way and Easement Areas**

- A. No encroachment into the right of way of a public street or highway or into an easement area granted to the municipality or to the public is authorized absent the prior approval of the municipality or PennDOT, as is applicable.
- B. Mailboxes that comply with United States Postal Service (USPS) standards are permitted in the road right-of-way.
- C. No tree, shrub, hedge, fence, wall or other item shall be placed within the limits of any public right-of-way, street, highway or easement.

#### **708 Individual Mobile Homes**

Individual mobile homes shall be permitted on individual lots only if they meet the following conditions:

- A. The proposed lot shall meet all area and yard requirements of the district.
- B. The installation of the mobile home shall comply with the Commonwealth of Pennsylvania Uniform Construction Code.
- C. The unit shall be permanently installed on piers or a foundation in a manner that complies with the manufacturer's recommendations. In cases where the unit is installed on piers, permanent skirting shall be required and maintained.

#### **709 Pets, Keeping Of**

- A. Keeping of pets is permitted by right, as an accessory use in all zoning districts.
- B. No use shall involve the keeping of animals or fowl in such a manner or of such types of animals that it creates a serious nuisance (including noise or odor), a health hazard or a public safety hazard. The owner of the animals shall be responsible for collecting and properly disposing of all fecal matter from pets.
- C. The keeping of "Exotic wildlife" as defined by the Pennsylvania State Law shall be prohibited.
- D. The keeping of Vietnamese Potbellied Pigs, Juliana Pigs, or veterinarian-certified similar breeds as pets is permitted by right, as an accessory use in all zoning districts, subject to the following:

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1. The zoning administrator shall require a licensed veterinarian's certification that any pig in the R-1 Residential, R-2 Residential or MU Mixed Use zoning district is a Vietnamese Potbellied Pig, Juliana Pig, or breed that is of similar size, weight, and behavioral characteristics.
2. No slaughtering of pet pigs is permitted within the R-1 Residential, R-2 Residential and MU Mixed Use zoning districts.
3. Section 1002.05, Non-Commercial Keeping of Poultry, Livestock and/or Equine Animals shall not apply to Vietnamese Potbellied Pigs, Juliana Pigs, or veterinarian-certified similar breeds that are being kept as pets.

**710 Minimum Floor Area**

All single family detached dwellings shall have a minimum of 800 square feet of habitable floor area, which shall exclude unfinished basements and attics, enclosed porches, breezeways, garages, or other similar structural additions.

## Article 8 Off-Street Parking and Loading

### 801 General Regulations

- A. Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off or beyond the public right-of-way.
- B. A garage or carport may be located wholly or partly inside the walls of the principal building, or attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory building requirements.
- C. Provisions for pedestrian safety within a parking lot shall be required by providing sidewalks, delineated crosswalks, traffic calming devices, and other measures, as necessary or appropriate.

### 802 Off-Street Parking Requirements

- A. The minimum number of off-street parking spaces required is set forth below. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply. If no similar uses are mentioned, the parking requirements shall be one (1) space for each two (2) proposed patrons and/or occupants of that structure. Fractional numbers of parking spaces shall be increased to the next whole number. Where more than one (1) use exists on a lot, parking requirements for each use must be met, except as provided for in Section 802 (B).

Land Use	Parking Required
<b>RESIDENTIAL</b>	
Single family dwellings	2 spaces per dwelling unit
Single family dwellings located in an age restricted housing community (limited to persons over the age of 55).	1 space per dwelling unit, plus 1 space per four dwelling units for guest parking.
Multiple family dwellings	2 spaces per dwelling unit plus 1 space per five dwelling units for guest parking.
Multiple family dwellings located in an age restricted housing community (limited to persons over the age of 55), or limited to 1 bedroom units.	1.25 spaces per dwelling unit
Accessory Dwelling Units	1 space per dwelling unit.
Assisted Living Facilities	Combination of the following: Personal care centers: 1 space for each 4 beds.

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	<p>Apartment units: 1 space per dwelling unit plus 1 space per 4 units for guest parking.</p> <p>Employee parking: 1 space per employee on largest shift.</p>
Continuing Care Retirement Communities	<p>Combination of the following:</p> <p>Personal care or nursing care centers: 1 space for each 4 beds.</p> <p>Apartment units: 1 space per dwelling unit plus 1 space per 4 units for guest parking.</p> <p>Single family units: 1 space per dwelling unit plus 1 space per 4 units for guest parking.</p> <p>Employee parking: 1 space per employee on largest shift.</p>
Boarding Houses	1 space per resident based on maximum occupancy, plus 1 space for guest parking for each four (4) residents based on maximum occupancy.
Group Quarters	1 space per resident based on maximum occupancy, plus 1 space for guest parking for each four (4) residents based on maximum occupancy.
Home Based Business or Occupation	2 per dwelling unit, plus one per non-resident employee, plus one additional space
Mobile Home Parks	2 spaces per dwelling unit
<b>AGRICULTURE</b>	
Farmer's Market	(1) space per 200 square feet of retail sales area; minimum 3 spaces
Landscape Nurseries and Greenhouses	(1) space per 250 square feet of gross floor area of indoor display, plus (1) space per 2,500 sq. ft. of greenhouse or outdoor display open to the public
Market or Auction House	(1) space per 100 sq. ft. of gross floor area, and (2) spaces per vendor
Retail sale of agricultural products produced on the premises; farm stands	(1) space per 200 square feet of retail sales area; minimum 3 spaces

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Riding Academy or Boarding Stable	1 space per 2 stalls, plus 1 space per 4 seats of spectator seating, plus 1 space for each non-resident employee.
<b>COMMERCIAL</b>	
<b>Amusement, Entertainment, and Recreation:</b>	
Amusement Arcade	1 space per 80 sq. ft. of gross floor area
Bowling Alley	(2) spaces per lane, plus 1 space per employee on largest shift.
Billiard Room	2 spaces per table
Campgrounds	2 spaces per campsite
Commercial Recreation (not otherwise covered)	(1) space per 2 persons permitted in maximum occupancy
Dance halls	(1) space per 100 sq. ft. of gross floor area, plus 1 per employee on largest shift.
Fairgrounds, amusement parks, carnivals, circuses, transient shows	(1) space per 3 persons permitted in maximum occupancy
Golf Courses	(4) spaces per hole, plus added spaces for restaurant uses if applicable
Golf Driving Ranges	(1) space per tee
Gyms, Indoor Athletic or Exercise Facilities	(1) space per 200 sq. ft. of gross floor area
Marina	(2) spaces per 3 boat slips, plus (10) spaces per launch
Miniature Golf	(1) space per hole
Skating and Roller Rinks	(1) space per 250 sq. ft. of gross floor area
Sports Arenas and Stadiums	(1) space per 3 seats, plus 1 space per employee on largest shift
Swimming pools (other than one accessory to a residential development, private residence or hotel/motel)	(1) space per 100 sq. ft. of water surface area
Tennis Courts	(3) spaces per court

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Theaters and Auditoriums	(1) space per 3 seats, plus 1 space per employee on largest shift
<b>Offices/Professional Uses:</b>	
Banks and Financial Institutions	(1) space per 250 sq. ft. of gross floor area
Offices, General	(1) space per 250 sq. ft. of gross floor area
Medical and Dental Offices, including outpatient clinics	(5) spaces per doctor, plus (1) space per employee on largest shift
Veterinary Clinics	(4) spaces per doctor, plus (1) space per employee on largest shift
<b>Retail Sales and Services:</b>	
Pet grooming	1 per each 5 kennels; minimum of 3 spaces, plus 1 per employee on largest shift
Auto Sales	(1) per each 250 sq. ft. gross floor area indoor display, plus (1) per 5,000 sq. ft. outdoor display
Automotive/ Vehicle Rentals	1 space per 700 sq. ft. of gross floor area, plus 1 space per 300 sq. ft. of office, sales and other spaces to be used by customers or employees.
Automotive/Vehicle Service and Repair Facilities	2 spaces for each service bay area plus one space per employee on the largest shift, but in no case less than 1 space for each 400 sq. ft. of gross floor area.
Beauty or Barber Shop	(1) space for each customer seat, plus 1 space per employee on largest shift
Bed and Breakfast Inns and Homes; short term rentals	(1) space per guest room, plus (1) space per employee on largest shift
Car Wash Facilities	(3) spaces per wash line

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Convenience Stores / Automotive Fueling Stations	(1) space per 150 sq. ft. of gross floor area open to the public, and 1 space per employee on largest shift
Day Care Centers	(1) space per employee on largest shift, plus (1) space per (6) visitors or students
Emergency Services	(1) space per employee on largest shift, plus (1) space per 250 sq. ft. of gross floor area open to the public
Flea Markets	(1) space per 200 square feet of retail sales area
Funeral Homes and Mortuaries	(25) spaces for the first parlor, plus (10) spaces for each additional parlor
Food markets and grocery stores	(1) space per 150 sq. ft. of gross floor area open to the public, and 1 space per employee on largest shift
Hotel or Motel	1 space per guest room, plus 1 space for each employee on the largest shift, plus spaces associated with meeting rooms (1 space for 400 square feet of public meeting area). Spaces for restaurants and related facilities shall be in addition to these requirements.
Kennels and Animal Boarding Facilities	(1) space for every 15 animals of capacity, plus 1 space per employee on largest shift
Laundry or Dry Cleaners	(1) space per 400 sq. ft. of gross floor area
Laundromat, self-service	1 space per 3 washing machines, plus 1 space per employee on largest shift
Manufactured Home Sales; Recreational Vehicle Sales; and Monument Sales	(1) space per 250 sq. ft. gross floor area indoor display, plus (1) space per 5,000 sq. ft. outdoor display
Medical Marijuana Dispensary	(1) space per 200 sq. ft. of gross floor area open to the public, plus 1 per employee on largest shift
Micro-Distillery	(1) space per 2 seats, plus (1) space per employee on largest shift

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Passenger Terminal	1 space for every 100 sq. ft. of waiting room space, plus 1 space for each employee on the largest shift.
Personal Services	(1) space per 250 sq. ft. of gross floor area
Pet grooming	1 per each 5 kennels; minimum of 3 spaces, plus 1 per employee on largest shift
Repair Services	(1) space per 300 sq. ft. of gross floor area open to the public, plus (1) space per employee on largest shift
Restaurant, Fast-Food w/ Drive-thru	(1) space per 2 seats, plus (1) space per employee on largest shift
Restaurant, other than fast food w/drive-thru	(1) space per 3 seats, plus (1) space per employee on largest shift
Retail Stores or shops (except those otherwise listed)	(1) space per 200 sq. ft. of gross floor area open to the public, plus 1 per employee on largest shift
Retail Stores (Furniture, lumber or floor coverings sales)	(1) space per 500 sq. ft. of gross floor area open to the public, plus 1 space per employee on largest shift.
Tavern, Night Club, Lounge, Brew Pub	Greater of (1) space per 50 sq. ft. of gross floor area open to the public or (1) per 2 seats; plus (1) space per employee on largest shift

<b>INDUSTRIAL</b>	
Contracting Operation (construction, electrical, heating, plumbing, etc.)	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public
Breweries; Distilleries; Beverage Bottling	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public
Distribution Centers; Truck Terminals	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public

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Industrial Uses (not otherwise covered)	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public
Manufacturing	(1) space per 1,000 sq. ft. of gross floor area, or (1) space per employee on largest shift, whichever is greater
Medical Marijuana Growers/Processor	(1) space per 1,000 sq. ft. of gross floor area, or (1) space per employee on largest shift, whichever is greater
Mini or self-storage facilities	1 space per 25 storage units, plus 1 space per employee on largest shift
Research and Technical Laboratories	(1) space per 1,000 SF, or (1) space per employee on largest shift, whichever is greater
Scrap (Junk or Salvage) Yards	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public
Warehouses	(1) space per employee on the largest shift, plus (1) space per 500 sq. ft. of gross floor area open to the public
Wholesale Establishments	(1) space per 1,000 sq. ft. of gross floor area, or (1) space per employee on largest shift, whichever is greater
<b>INSTITUTIONAL, EDUCATIONAL, SOCIAL AND RELIGIOUS</b>	
Athletic/ Sports Fields	(5) spaces per acre; plus (1) space per 3 seats for spectators, or if there are no seats, (1) space for every 40 sq. ft. of spectator seating area.
Cemetery	(1) space per employee on largest shift, plus (1) space per 4 seats of chapel or assembly room capacity.
House of Worship	(1) space per 4 seats used for services
Municipal Buildings; Community Buildings	(1) space per 100 sq. ft. of gross floor area open to the public

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Nursery Schools	(1) space per employee on largest shift, plus (1) space per (6) visitors or students
Hospitals	(1) space for each 1.5 beds, plus (1) space per employee on largest shift
Libraries and Museums	(1) space per 300 sq. ft. of gross floor area open to public, plus (1) space for each employee on largest shift
Monasteries or Convents	(1) space per 6 residents, (1) space per employee on largest shift, and (1) space per 5 chapel seats
Nursing Home	(1) space per 6 beds, plus (1) space per employee on largest shift
Park (10 acres or less)	(5) spaces for the first two acres and (1) space for each additional acre; plus additional spaces for facilities such as playgrounds, athletic fields, pavilions, swimming pools and tennis courts
Parks (greater than 10 acres)	(5) spaces for the first acre, plus 1 space for each additional 10 acres; plus additional spaces for facilities such as playgrounds, athletic fields, pavilions, swimming pools and tennis courts
Park Pavilion	1 space for each picnic table
Playgrounds	(4) spaces per 1,000 sq. ft. of playing area
Post Office	(1) space per 100 sq. ft. of gross floor area open to the public.
Prisons	(1) space per employee on largest shift, plus 1 space per every (4) seats in visitation room
Social Clubs, Fraternal Clubs, Lodges and Similar Uses	(1) space per 100 sq. ft. of gross floor area open to the public.
Treatment Center/Pre-Release Detention Facility/Halfway House	1 space per 2 beds, plus 1 space for each employee on largest shift
<b>Schools:</b>	

**Commented [JMM2]:** Current 350-24 requires schools and churches to have 1 space per 3.5 seats in auditorium or 1 for each 17 classroom seats, whichever is greater. It does not differentiate between the type of school and associated differences in parking needs.

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Colleges or Universities	1 space for every three employees plus 1 space for every 10 students residing on campus and 1 space for every 5 students not residing on campus.
Elementary School	1.5 spaces per 30-person classroom.
Junior High School	3.5 spaces per 30-person classroom.
Senior High School	9.5 spaces per 30-person classroom
Vocational training and adult education facilities	(1) space per 1.5 students enrolled
College/University – Off-Campus Housing	(1) space per employee, plus (1) per 2 students
College/University – Campus Housing	(1) space per employee, plus (1) per 4 students

- B. Shared Parking Spaces: When more than one (1) use exists on a lot, parking requirements for each use must be met. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Board of Supervisors may reduce the total number of parking spaces required for the use that requires the least number of spaces.
- C. Parking Oversupply: The Board of Supervisors may authorize the reduction of the number of required off-street parking spaces as a conditional use in cases where the applicant can justify a reduction and still provide adequate parking facilities to serve the proposed uses of the building and/or land.
1. The applicant may be required to provide a parking analysis conducted by a licensed professional engineer experienced in the construction and design of parking facilities. Such analysis shall justify the reduction and document an adequate number of parking spaces needed to adequately support the proposed use(s) of the property.
  2. In cases where a reduction in the number of required parking spaces is permitted, the Board of Supervisors may require the balance of parking spaces to be set aside in a natural state and a parking easement for future expansion if at some point additional parking becomes necessary.
  3. As an alternative, the applicant may request that a percentage of the parking area be delineated as peak or overflow parking, permitted to be constructed with a grass paver, reinforced turf grass, or other pervious construction methods approved by the municipality.
- D. Dead-end Parking: Dead-end parking areas shall not be used when the required parking capacity can be accommodated in a layout that permits more convenient vehicular movements. However, extraneous through-traffic flow should be avoided.

1. Up to thirty (30) parking spaces may also be located in a dead-ended parking area if there is no more desirable alternative feasible, and sufficient back-up areas are provided for the end stalls.
2. More than thirty (30) parking spaces may be located in a dead-ended parking area only if a turnaround area is provided at the closed end, suitable for passenger car turning. The turnaround area may be circular, "T" or "Y" shaped, or other configuration acceptable to the municipal governing body.

### **803 ADA Parking Requirements**

- A. All non-residential and multi-family off-street parking areas shall provide accessible parking spaces for use by motor vehicles that transport physically disabled persons in accordance with ADA standards.
- B. Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- C. Parking spaces reserved for use by the physically disabled shall be clearly identified, designed and constructed in accordance with ADA requirements.
- D. The number of parking spaces reserved for use by the physically disabled shall be in accordance with ADA requirements.

### **804 Parking Space Dimensions**

- A. Individual off-street parking spaces shall be a minimum of nine feet by eighteen feet (9'x18') with the following exceptions:
  1. Angled off street parking spaces shall be a minimum of nine (9) feet wide and a minimum of nineteen (19) feet long (9' x 19').
  2. Parallel parking spaces shall be a minimum of eight (8) feet wide and a minimum of twenty-three (23) feet long (8' x 23').
  3. Parking spaces for the physically handicapped shall be in accordance with ADA standards.

### **805 Location of Parking Spaces**

- A. Parking areas shall be located entirely on the lot being served except unless a conditional use is approved by the Township.
- B. Parking shall not be located within any buffer yard required by this chapter.

### **806 Drainage, Surfacing, and Maintenance Standards**

- A. Any new or enlarged commercial, institutional, industrial, or multi-family residential off-street parking and/or loading areas shall be graded for proper drainage, and shall comply with the North East Township Stormwater Management Ordinance.
- B. All parking and loading areas and access drives shall have a dust-free surface.
- C. Parking and loading areas shall be kept clean and free from rubbish and debris.

### **807 Lighting**

- A. All public parking shall be lit during evening operating hours.
- B. All standards shall be located on raised parking islands and not on the parking surface.
- C. The placement of light standards shall be coordinated with any required landscaping to avoid a conflict with the effectiveness of light fixtures.
- D. Lighting shall comply with the requirements set forth in Section 704, Exterior Lighting.

### **808 Minimum Setbacks for Off-Street Parking and Loading Areas**

- A. Off-street parking areas for fifteen (15) or more vehicles shall comply with the parking lot landscaping requirements of Section 809, and shall be located a sufficient distance from all public road rights-of-way and adjoining property lines to accommodate the required perimeter landscaping. However, in no case shall the parking lot be located less than fifteen (15) feet from any adjoining property line.
- B. Off-street parking areas for more than five (5) vehicles shall be located a minimum of ten (10) feet from any adjoining property line containing a dwelling, residential district, or platted residential lots. Off-street parking for single-family residential dwellings and two-family residential dwellings are exempt from this requirement.
- C. No off-street loading area shall be closer than ten (10) feet to any adjoining property line containing a dwelling, residential district, or platted residential lots.

### **809 Parking Lot Landscaping**

Parking lots shall be effectively landscaped with trees and shrubs to reduce the visual impact of glare from headlights and parking lot lights, to delineate driving lanes, and define rows of parking. Furthermore, parking lots shall be adequately landscaped to provide shade in order to reduce the amount of reflected heat and to improve the aesthetics of parking lots.

- A. Applicability:
  - 1. The parking lot landscaping requirements of this chapter shall apply to all parking lots that are constructed after the effective date of this chapter and that have fifteen (15) or more parking spaces.
  - 2. The parking lot landscaping requirements of this ordinance shall apply to expansions of existing parking lots that will create fifteen (15) or more additional parking spaces unless a conditional use is approved by the Board of Supervisors.

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B. General Regulations: Unless specifically stated otherwise in this chapter, all parking lots shall be landscaped according to the following regulations:

1. Planting Islands:

- a. A minimum of one planting island shall be provided for each fifteen (15) parking spaces. Planting islands shall also be provided, at the end of each parking row.
- b. The pervious surface area of each planting island shall be a minimum of 17 feet long and a minimum of 12 feet wide.
- c. Where two or more planting islands are required in a parking row, they shall be placed so that in no instance are the islands separated by more than 15 parking spaces.
- d. All planting islands shall contain a minimum of one deciduous street tree. The trees shall have a minimum two-inch caliper and six-foot planting height. The tree shall have a clear trunk height sufficient to allow vehicular circulation and visibility beneath the canopy.
- e. Unless designed to function as part of the stormwater management system, planting islands shall be underlain by soil mounded up to six (6") inches minimum above the paved parking or drive area and shall be protected by curbs or wheel stops.

2. Planting Medians:

- a. A planting median, meaning a strip of land landscaped as required by this subsection, shall be placed between every three adjacent parking bays, at a minimum, to prevent traffic movement across parking aisles.
- b. All planting medians shall be a minimum of fifteen feet (15') wide and may include a sidewalk, where necessary or appropriate for pedestrian circulation.
- c. All planting medians, at a minimum, shall include the following plantings:
  1. One deciduous tree for each 35 feet of planting median length. Trees shall be planted 35 feet on center, in a continuous or staggered row; and
  2. Ten (10) shrubs for every tree required, planted in rows or clustered groups.
- d. The required trees shall have a minimum two-inch caliper and six-foot planting height. Shrubs shall have a minimum 18-inch planting height.
- e. All planting medians shall contain defined breaks, as necessary, to provide pedestrian circulation between bays of parking. The bays shall allow for handicap accessibility from one side of the planting median to the other and onto any sidewalk located within the planting median.
- f. Unless designed to function as part of the stormwater management system, planting medians shall be underlain by soil mounded up to six (6") inches minimum above the paved parking or drive area and shall be protected by curbs or wheel stops.

3. Perimeter Landscaping:

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- a. Parking lots with fifteen (15) or more parking spaces require planting strips around the entire perimeter of the parking lot except where buildings are located and at vehicle or pedestrian access points.
- b. Unless otherwise specified in this chapter, where required, the perimeter planting strip around all parking lots shall be a minimum of fifteen (15') feet in width.
- c. Planting strips, at a minimum, shall include the following plantings:
  - 1. One deciduous tree for each 35 feet of planting strip length. Trees shall be planted 35 feet on center, in a continuous or staggered row; and
  - 2. Ten (10) shrubs for every tree required, planted in rows or clustered groups.
- d. The required trees shall have a minimum two-inch caliper and six-foot planting height. Shrubs shall have a minimum 18-inch planting height.
- e. Unless designed to function as part of the stormwater management system, planting strips shall be underlain by soil mounded up to six (6") inches minimum above the paved parking or drive area and shall be protected by curbs or wheel stops.
- f. When a parking lot abuts a street, a planting strip shall be provided along the entire street line. The width of the planting strip shall be as follows:

Number of Spaces in Parking Lot	Minimum Planting Strip Width Along Street R.O.W.
Less than 100	20
100 to 250	25
Over 250	30

- g. In cases where a buffer yard and/or buffer planting strip is required in accordance with Section 702 of this chapter, the perimeter planting strip may be located within the required buffer yard or buffer planting strip.
- 4. Ground Cover: In addition to any other required plantings, all parking lot planting areas shall be planted with turf grass, ornamental grasses (not exceeding 24 inches at maturity) or other ground cover plant material. Mulch, stone or similar materials may be used sparingly.
- 5. Planting Requirements: Planting requirements for required parking lot landscaping shall be in accordance with the requirements of Section 702.05 of this chapter.
- 6. Landscaping Maintenance: Required landscaping shall be maintained in accordance with the requirements of Section 702.06 of this chapter.
- C. Alternative Landscaping Designs: The applicant may request the municipality to permit an alternative landscaping design which achieves the purposes of these parking area requirements as well or better than the requirements herein. The final decision to permit an alternative design shall be made by the Board of Supervisors, with the advice of the municipal planning commission and engineer.

### 810 Driveway Regulations

Driveways for single-family dwellings and multiple family dwellings with less than 5 units shall meet the following standards:

- A. Where a residential lot fronts on both a local street and a collector or arterial street, driveway access shall be from the local street.
- B. The number of driveways may not exceed two (2) per lot on a street frontage.
- C. Driveways may not exceed a width of 24 feet at the right-of-way line, excluding driveway radii.
- D. Setbacks: All driveways shall be setback at least:
  - a. Forty (40') feet from any street intersection.
  - b. Five (5') feet from any fire hydrant
  - c. Five (5') feet from any side and/or rear property lines. However, this setback shall be waived along the property line when a shared driveway is proposed.
  - d. Two (2') feet from the outside edge of an existing catch basin or basin grate.
- E. Any driveway intersecting with a State-owned road shall require a Highway Occupancy Permit from the Pennsylvania Department of Transportation.
- F. Driveways shall not interfere with normal traffic movement nor be constructed in a manner to be inconsistent with the design, maintenance and drainage of the street.
- G. Where a new driveway is proposed to cross a drainage swale adjacent to a public or privately maintained road, the property owner shall install a drainage pipe of adequate size and length underneath the driveway to handle the runoff. Where such intersections are to be created along a municipal road or privately maintained road, officials from the municipality shall determine the appropriate pipe size and length. However, in no case shall a pipe less than fifteen inches (15") in diameter be installed. Where a state-owned street is involved, PennDOT shall make the necessary determinations.
- H. A driveway location shall be delineated on all plans / permits, as applicable.
- I. Driveways shall be located so as to provide adequate sight distance at intersections with streets. Such sight distances shall be no less than a minimum of 100 feet along the centerline of a collector or arterial road, or a minimum of 75 feet along the centerline of a local street.

### 811 Access Drive Regulations

Access drives for non-residential properties and multiple family dwellings of 5 or more units shall meet the following criteria:

- A. Access to off-street parking areas shall be limited to a minimal number of well-defined entrance and exit lanes that are separated by dividers, planting islands, or in the case of low volume facilities, pavement markings. In no case shall unrestricted access along the length of a street upon which the parking abuts be permitted.
- B. Except as specified elsewhere, the number of access drives intersecting with a street shall not exceed two (2) per lot. The Zoning Hearing Board may grant a variance for additional access points where required to meet exceptional circumstances and/or where frontage of unusual length exists.

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- C. Shared Access: The Board of Supervisors may require nonresidential lots to provide cross-access easements for parking areas and access drives guaranteeing access to adjacent lots as a means of reducing the total number of curb cuts for traffic safety and congestion reasons. In such cases, the following apply:
- a. Non-residential lots shall provide cross-access easements for parking areas and access drives guaranteeing access to adjacent lots. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.
  - b. When two (2) or more abutting lots share an access driveway, the driveway should be designed as the main access to those lots, and one or more existing access driveways should then be closed.
  - c. Shared access may be located entirely on one lot or be split among a common lot line.
  - d. Access easement and maintenance agreements or other suitable legal mechanisms shall be provided, in a form acceptable to the Board of Supervisors in consultation with the municipal solicitor. The access easement and maintenance agreements shall be recorded at the Erie County Recorder of Deeds.
  - e. Liability safeguards for all property owners and lessees served by the shared access shall be guaranteed to the satisfaction of the governing body in consultation with the municipal solicitor.
- D. Setbacks: All access drives shall be setback at least:
- a. Fifty (50') feet from any other access drive or driveway located upon the same lot.
  - b. Fifty (50') feet from any street intersection.
  - c. Ten (10') feet from any side and/or rear property lines.
  - d. Two (2') feet from the outside edge of an existing catch basin or basin grate.
- E. Clear-Sight Triangle: Access drives shall be located and constructed so that a clear-sight triangle meeting the requirements of Section 605 is maintained.
- F. Any access drive intersecting with a State-owned road shall require a Highway Occupancy Permit from the Pennsylvania Department of Transportation.
- G. Access Drive Width: Access drives for commercial, institutional and industrial properties shall have a minimum width of twelve (12') feet for each lane of travel. However, an access drive shall be no less than eighteen (18') feet wide in cases where the access is to off-street loading or unloading areas required by this Chapter.
- H. No access drive shall intersect a street line at an intersection of less than 45 degrees.
- I. The access drive shall be paved from the edge of the street pavement to the right-of-way line, and drive aprons shall be set at the finished elevation of the accessed street's asphalt wearing course, if applicable.

### 812 Stacking Requirements for Drive-in, Drive-Through Facilities

This section provides vehicle stacking standards for drive-in and/or drive-through facilities. These may include such uses as banks, fast-food restaurants and car washes. The purpose of these standards is to provide minimum stacking capacity for various uses so vehicles will not use public streets while queuing in line for service. All references to stacking capacity relate to typical automobiles. A length of twenty (20) feet per auto will be used to accommodate one (1) vehicle and minimal head space. Minimum stacking lane width is nine (9) feet. Stacking capacity is to be measured from the lot line to the service window and is not to include any area of the public right-of-way. For uses not listed on the table below, guidelines for the Institute of Traffic Engineers or the written recommendations of a professional engineer may be used.

Use	Minimum Stacking Capacity
Restaurant	8 per drive-through window <sup>1</sup>
Bank	5 per drive-through window
Car Wash	4 per wash bay

<sup>1</sup>If there are separate order and pickup windows, four (4) for each shall be accepted.

### 813 Loading Area Requirements

- A. An off-street loading area shall be an area of land, open or enclosed, other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys.
- B. An off-street loading area shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- C. All non-residential uses shall provide adequate off-street loading areas to accommodate the intended needs of the proposed land use either inside or outside of a building.
- D. To the maximum extent practical, off-street loading areas shall be located at the side or rear of buildings in order to reduce the visual impact of vast areas of pavement.
- E. Adequate off-street loading areas shall be provided so that all vehicle loading, maneuvering or unloading is completely off the public road right-of-way, and vehicles need not back out onto any public road right-of-way.
- F. The applicant shall provide details on the type of vehicles operating in connection with the proposed use to justify the loading and unloading areas proposed. Each required space shall meet the following minimum dimensions. Overhead clearance shall not be less than fourteen (14) feet.
- G.

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<b>Largest Type of Truck Service</b>	<b>Minimum Width (feet)</b>	<b>Minimum Length (feet)</b>
Tractor trailer	12	70
Trucks (other than tractor trailers, pick-ups or vans)	10	35
Pick-up truck or van	10	20

- F. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining residential uses or districts.
- G. Off-street loading areas shall be designed to accommodate easy ingress and egress of all delivery vehicles and shall be designed to prevent interference with the flow and safety of traffic and pedestrians.
- H. No off-street loading area shall be located within any building setback area and/or buffer area.

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- I. The following off-street loading area/space requirements for specific uses shall be provided as listed below:

Commented [JMM3]: Compare this chart to current 350-24 (B).

Off-Street Loading Requirements		
Type of Use	Number of Spaces Per	Gross Floor Area
Hospital or other Institution	None 1 +1	First 10,000 square feet 10,000 to 100,000 square feet Each additional 100,000 square feet (or fraction)
Hotel, motel, and similar lodging facilities	None 1 +1	First 10,000 square feet 10,000 to 100,000 square feet Each additional 100,000 square feet (or fraction)
Industry or Manufacturing	None 1 +1	First 2,000 square feet 2,000 to 25,000 square feet Each additional 40,000 square feet (or fraction)
Multi-Family Dwellings	None	N/A
Office Building, including banks	None 1 +1	First 10,000 square feet 10,000 to 100,000 square feet Each additional 100,000 square feet (or fraction)
Retail sales and services, per store, and restaurants	None 1 2 +1	First 2,000 square feet 2,000 to 10,000 square feet 10,000 to 40,000 square feet Each additional 100,000 square feet (or fraction)
Theater, auditorium, bowling alley, or other recreational establishment	None 1 +1	First 10,000 square feet 10,000 to 100,000 square feet Each additional 100,000 square feet (or fraction)
Funeral homes	None 1 +1	First 3,000 square feet 3,000 to 5,000 square feet Each additional 10,000 square feet (or fraction)
Wholesale or warehousing (except mini-warehousing)	None 1 +1	First 1,500 square feet 1,500 to 10,000 square feet Each additional 40,000 square feet (or fraction)

## Article 9 Signs

### 901 Applicability

Any sign erected, altered, or maintained after the effective date of this Chapter shall conform to the following regulations.

### 902 Purpose & Intent

Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The purpose and intent of this Article is to regulate signs within the municipality in a manner that balances the right of free speech by sign display against the competing public and governmental interests in community aesthetics, traffic safety, preventing sign clutter and visual pollution, and other negative effects associated with excessive and/or inappropriate signage.

### 903 Definitions Specific to Signs

**Abandoned Sign:** A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 180 days, in the case of billboard signs, or at least 360 days in the case of on-premises signs.

**Address Sign:** A sign that designates the street number and/or street name for identification purposes, as designated by the United States Postal Service.

**Awning:** A cloth, plastic, or other nonstructural covering that projects from a wall for the purpose of shielding a doorway or window. An awning is either permanently attached to a building or can be raised or retracted to a position against the building when not in use.

**Awning Sign:** Any sign painted on, or applied to, an awning.

**Billboard:** A permanent sign in a fixed location which meets any one or more of the following criteria: (1) it is used for the display of an off-site commercial message; (2) the message display area, or any part thereof, is made available to message sponsors other than the owner(s) or operator(s) of the sign, typically for a fee or other consideration, i.e., it is general advertising for hire; (3) the sign is a principal or secondary use of the land, rather than appurtenant or accessory to some other principal use of the land.

**Building Frontage:** The maximum linear width of a building measured in a single straight line parallel, or essentially parallel, with the abutting public street or parking lot.

**Building Sign:** A building-mounted sign which is attached to, displayed on, or painted on the exterior of a building or structure. For purposes of this chapter, building signs include wall signs, awning signs, canopy signs, projecting signs, and marque signs.

**Canopy:** A structure other than an awning made of fabric, metal, or other material that is supported by columns or posts affixed to the ground and may also be connected to a building.

**Canopy Sign:** Any sign that is part of, or attached to a canopy.

**Commented [JMM4]:** Compare draft Article 9 with current ordinance 350-25 Signs and 350-35 Billboards.

Current ordinance includes several regulations that appear to be based on the type of sign message. In order to help prevent legal challenges, this draft strongly recommends that the Township regulate signage based on location and physical characteristics such as size, height, style, lighting, etc., rather than the use/messaging of the sign.

See Section 915 Substitution Clause.

**Changeable Copy Sign:** A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system. The two types of changeable-copy signs are manual changeable copy signs and electronic changeable copy signs, which include: message center signs, digital displays, and Tri-Vision Boards.

**Commercial Message:** A message that proposes a commercial transaction or pertains primarily to the economic and/or commercial interests of the message sponsor and/or the sign audience.

**Digital Display:** The portion of a sign message made up of internally illuminated components capable of changing the message periodically. Digital displays may include but are not limited to LCD, LED, or plasma displays.

**Directional Sign:** Signs designed to provide direction to pedestrian and vehicular traffic into and out of, or within a site.

**Freestanding Sign:** A sign supported by structures or supports that are placed on, or anchored in, the ground; and that is independent and detached from any building or other structure. The following are subtypes of **freestanding signs**:

**Ground Sign:** A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building. (Also known as **monument sign**)

**Pole Sign:** A freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.

**General Advertising for Hire:** The enterprise of advertising or promoting other businesses or causes using methods of advertising, in contrast to self-promotion or on-site advertising.

**Government/Regulatory Sign:** Any sign for the control of traffic or for identification purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger or construction, which are erected by or at the order of a public officer, employee or agent thereof, in the discharge of official duties.

**Illumination:** A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source.

**Illuminated Sign:** A sign with electrical equipment installed for illumination, either internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by a light source aimed at its surface.

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**Incidental Sign:** A sign that displays general site information, instructions, directives, or restrictions that are primarily oriented to pedestrians and motor vehicle operators who have entered a property from a public street. These signs do not contain any commercial advertising.

**Incidental Window Sign:** Signs displayed in the window displaying information such as the business' hours of operation, credit institutions accepted, commercial and civic affiliations, and similar information. These signs are informational only and do not contain a commercial message.

**Legibility:** The physical attributes of a sign that allow for an observer's differentiation of its letters, words, numbers, or graphics.

**Manual Changeable Copy Sign:** A sign or portion thereof on which the copy or symbols are changed manually through placement or drawing of letters or symbols on a sign face.

**Marquee:** A permanent structure, other than a roof or canopy, attached to, supported by, and projecting from a building and providing protection from the elements.

**Marquee Sign:** Any sign attached to a marquee for the purpose of identifying a use or product. If attached to a theater, performing arts center, cinema, or other similar use, it may also advertise films or productions.

**Memorial Sign:** A memorial plaque or tablet, including grave markers or other remembrances of persons or events, which is not used for a commercial message.

**Message Center Sign:** A type of illuminated, changeable copy sign that consists of electronically changing alphanumeric text often used for gas price display signs and athletic scoreboards.

**Message Sequencing:** The spreading of one message across more than one sign structure.

**Mural (or mural sign):** A large picture/image (including but not limited to painted art) which is painted, constructed, or affixed directly onto a vertical building wall, which may or may not contain text, logos, and/or symbols.

**Non-commercial message:** A constitutionally protected message that addresses topics of public concern or controversy such as, by way of example and not limitation, politics, religion, philosophy, science, art or social commentary. For purposes of this chapter, this definition shall be construed in light of relevant court decisions.

**Nonconforming Sign:** A sign that was legally erected and maintained at the effective date of this Chapter, or amendment thereto, that does not currently comply with sign regulations of the district in which it is located.

**Offsite Commercial Message:** A message that advertises commercial products, accommodations, services or activities not provided in or on the property or premises upon which it is located.

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**Official Traffic Sign:** Official highway route number signs, street name signs, directional signs and other traffic signs erected and maintained on public highways and roads in the interest of public safety or for the regulation of traffic.

**On-Premises Sign:** A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

**Onsite or on-premises commercial message:** A message that advertises the commercial business, establishment, accommodation, services or activities provided on the premises on which the sign is located, or is expected to be provided in the near future.

**Permanent Sign:** A sign attached or affixed to a building, window, or structure, or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign and whose intended use appears to be indefinite.

**Private Drive Sign:** A sign indicating a street or drive which is not publicly owned and maintained and which is used only for access by the occupants of the development and their guests.

**Projecting Sign:** A building-mounted, double-sided sign with the two faces generally perpendicular to the building wall, not to include signs located on a canopy, awning, or marquee.

**Public Sign:** A sign erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification signs for public facilities.

**Security Sign:** An on-premises sign regulating the use of the premises, such as a “no trespassing,” “no hunting,” or “no soliciting” sign. (Also known as *warning sign*)

**Shielded:** The description of a luminaire from which no direct glare is visible at normal viewing angles, by virtue of its being properly aimed, oriented, and located and properly fitted with such devices as shields, barn doors, baffles, louvers, skirts, or visors.

**Sign:** Any device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message. Sign includes the sign faces as well as any sign supporting structure.

**Sign Area:** The total dimensions of a sign surface used to display information, messages, advertising, logos, or symbols. See Section 905 (D) for standards for measuring sign area.

**Sign Face:** The part of the sign that is or can be used for the sign area. The sign area could be smaller than the sign face.

**Sign Height:** The vertical distance from normal grade to the highest point of the sign. Any berm or filling or excavating solely for the purpose of locating the sign, shall be computed as part of the sign height.

**Sign Supporting Structure:** Poles, posts, walls, frames, brackets, or other supports holding a sign in place.

**Street Frontage:** The side or sides of a lot abutting on a public street or right-of-way.

**Temporary Sign:** A sign that is not permanently installed in the ground or permanently affixed to a building or structure, and whose intended use does not appear to be indefinite.

**Tri-Vision Boards:** An outdoor unit with a slatted face that allows three different copy messages to revolve at intermittent intervals.

**Vending Machine Sign:** A sign displayed on a vending machine indicating the name of the product being sold and/or the price of such product.

**Wall Sign:** A building-mounted sign which is either attached to, displayed on, or painted on an exterior wall in a manner parallel with the wall surface. A sign installed on a false or mansard roof is also considered a wall sign.

**Window Sign:** Any sign that is applied, painted, or affixed to a window, or placed inside a window, within three (3) feet of the glass, facing the outside of the building, and easily seen from the outside. Customary displays of merchandise or objects and material without lettering behind a store window are not considered signs.

#### 904 Signs Exempt from Permit Requirements

- A. Temporary signs are permitted in all districts, and do not require a Zoning Permit. Temporary signs shall comply with Section 910, Temporary Signs, unless exempted by Section 904 (B).
- B. The following signs are permitted in all districts, and do not require a Zoning Permit. They are not included in the determination of the maximum number of signs or the maximum area of signs allowed on a property, provided that the applicable conditions have been met.
  1. Official traffic signs
  2. Government/regulatory signs
  3. Signs inside a building, or other enclosed facility, which are not meant to be viewed from the outside.
  4. Address signs - Up to two (2) signs stating address, number and/or name of occupants of the premises and that do not include any commercial advertising or other identification.
    - i. *Residential districts.* Signs not to exceed two (2) sq. ft. in area.
    - ii. *Non-residential districts.* Signs not to exceed five (5) sq. ft. in area.
  5. Public signs - Signs erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification or directional signs for public facilities.
  6. Security and warning signs.
  7. Memorial signs, public monument or historical identification signs, including plaque signs up to three (3) sq. ft. in area.
  8. Signs which are a permanent architectural feature of a building or structure, such as a cornerstone, or identifying letters carved into or embossed on a building, provided the letters are not made of a reflective material nor contrast in color with the building.

**Commented [JMM5]:** Current 350-25 (B, 11) requires all signs to have a permit "unless specifically stated otherwise".

350-25 (B, 9) allows temporary signs for field days, reunions and public sales for 1-5 days without a permit. Temporary signs for longer than 5 days or for other uses appear to require a permit. It is recommended that Twp avoid regulating signage based on content, and regulate all temporary signs in a similar manner.

350-25 (B, 3) exempts real estate signs from permit requirements. Real estate signs are a type of temporary sign, and would also be exempted from the permit requirement by this draft.

This draft presents the Township with other potential signs that Twp may want to exempt from the permit requirement. It is noted that signs can still be regulated even if no permit is required.

**Commented [JMM6]:** 350-25 (D, 6) permits 1 "residential name sign" per residence, max. 2 sq. ft. in R-1.

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- 9. Incidental signs, including incidental window signs.
- 10. Directional signs, provided they do not contain any commercial messaging.
  - iii. *Area*: No single directional sign shall exceed four (4) sq. ft. in area.
  - iv. *Height*: Directional signs shall have a maximum height of five (5) ft.
  - v. *Illumination*: Directional signs shall be non-illuminated.
- 11. Vending machine signs
- 12. Art and murals, provided such signs do not contain any commercial messaging.
- 13. Flags, provided such flags do not contain any commercial messaging.

**Commented [JMM7]:** 350-25 (B, 5) also limits directional signs to 4 sq.ft., but allows limited commercial messaging.

### 905 General Regulations

- A. Sign location:
  - 1. No sign shall be placed in such a position as to endanger pedestrians, bicyclists, or traffic on a street by obscuring the view or by interfering with official street signs or signals by virtue of position or color.
  - 2. Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground utility and communications lines or equipment.
- B. Sign Setback Requirements: The minimum setback requirement shall meet the setback requirements in the table below. All portions of the sign, including overhangs, must meet minimum setback requirements.

**Commented [JMM8]:** Current 350-25 does not appear to include setbacks specific to signage.

Condition	Minimum Setback from Property Lines
Sign area of 32 sq. ft. or less	5 feet
Sign area greater than 32 sq. ft.	10 feet
Sign adjacent to residential property	10 feet
Billboards	See Section 911

- C. Sign Materials & Construction: Every sign shall be structurally safe and erected or installed in strict accordance with any applicable provisions of the PA Uniform Construction Code; and shall be maintained in safe condition and good repair at all times so that all sign information is clearly legible.
- D. Sign Area.
  - 1. The area of a sign shall mean the area of all lettering, wording, and accompanying designs, logos, and symbols. The area of a sign shall not include any supporting framework, bracing or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
  - 2. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, wall, or window, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.
  - 3. Signs may be double-sided. For double-sided signs only one (1) side shall be considered when determining the sign area, provided that the faces are equal in size, the interior angle formed by the faces is less than 45 degrees, and the two faces are not more than 18 inches apart

**Commented [JMM9]:** Similar to current 350-25 (B, 2)

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4. Signs that consist of, or have attached to them, one or more three-dimensional or irregularly shaped objects, shall have a sign area of the sum of two adjacent vertical sign faces of the smallest cube encompassing the sign or object.
- E. Sign Illumination: Signs may be illuminated, unless otherwise specified herein, consistent with the following standards:
1. Light sources to illuminate signs shall not cause glare hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties.
  2. Signs located within the MU Mixed Use, B-1 Business and B-2 Business districts, may be illuminated either internally, through the sign face by a light source contained inside the sign, or externally, by a light source aimed at its surface.
  3. Signs located in the A-1 Preservation, A-2 Agricultural, R-1 Residential and R-2 Residential districts may be illuminated externally, by a light source aimed at the sign's surface.
  4. Signs illuminated internally, through the sign face by a light source contained inside the sign, are prohibited within the A-1 Preservation, A-2 Agricultural, R-1 Residential and R-2 Residential districts.
  5. Digital display and message center signs are permitted only within the B-1 Business and B-2 Business districts, unless a conditional use is granted by the Board of Supervisors. The length of time each message shall be displayed shall be no less than one (1) minute.
- F. In addition to the requirements of this ordinance, the sign shall comply with all applicable requirements of the Pennsylvania Outdoor Advertising Control Act of 1971, Act 160, as amended. In cases where the property abuts a state highway, the applicant shall provide evidence of compliance the Act.

**Commented [JMM10]:** Current 350-25 (F and G) permit self-illuminated and electronic signs, subject to conditions, within the B-1 and B-2 districts. 350-25 (E, 2) permits self-illuminated signs in R-2. With the creation of the new MU district, which was formerly R-2, the Twp may want to consider excluding internally illuminated signs from R-2.

**Commented [JMM11]:** Current 350-25 (C, 8) and (D, 7) prohibit "self-illuminated" signs in A-1, A-2, and R-1, respectively. (E, 2) permits "self-illuminated" signs in R-2, subject to size & height limits. The ordinance appears unclear as to whether this is intended to apply to externally illuminated signs or just to internally illuminated signs. However, based on (B, 4) it is assumed that external illumination is permitted as long as "white light" is used.

**Commented [JMM12]:** Specify districts desired by municipality.

**Commented [JMM13]:** This draft would require a conditional use within the MU district. Current 350-25 (F, 8) requires at least 3 minutes between messages. Draft/model standard for Twp's consideration is 8 seconds.

### 906 Prohibited Signs

The following signs are unlawful and prohibited:

- A. Abandoned Signs
- B. Signs erected in a public right-of-way, or on public land, other than those approved by the municipality, or those required by law.
- C. Any signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, or signals.

**Commented [JMM14]:** Compare to current 350-25 (B, 4, 6,7,8 and 10).

### 907 Government Signs

Signs erected or required by government agencies or utilities, including government/regulatory signs, official traffic signs, public signs, legal notices and other signs required by law shall be exempt from the regulations of this chapter.

### 908 Freestanding Signs

Permanent, freestanding signs, as defined by this chapter, are subject to the number, height and sign area requirements identified in the table below, unless otherwise specified by this chapter, or unless a conditional use is approved by the Board of Supervisors.

Freestanding Signs - Number, Height and Area Regulations			
Condition	Maximum Number	Maximum Area (per sign face)	Maximum Height
Residential Properties in A-1 and A-2 Districts (includes Home Occupations and Bed & Breakfast)	1/lot	6 sq. ft.	6 feet
Residential Properties in R-1, R-2, and MU Districts (includes Home Occupations and Bed & Breakfast)	1/lot	6 sq. ft.	6 feet
Residential Subdivisions of 10 or more lots; Apartment Complexes, Condominium Complexes or Multi-Family Dwellings with 5 or more units; mobile home parks; assisted living facilities; age restricted communities; and continuing care retirement communities.	1/street entrance	32 sq. ft.	8 feet
Permitted Non-Residential Uses in A-1, A-2, R-1, R-2 and MU Districts.	1/street frontage	32 sq. ft.	10 feet
Properties within B-1 District	1/street frontage	100 sq. ft.	20 feet
Properties within B-2 District	1/street frontage	100 sq. ft.	20 feet

**Commented [JMM15]:** Current ordinance establishes sign regulations for each district, but does not appear to differentiate between freestanding and building mounted signs when regulating number & size of signs.  
  
This draft regulates signs by type, both freestanding and building mounted.

**Commented [JMM16]:** 350-25 (C, 1) permits 6 sq. ft. and 3 foot height for B&B and home occupations in A-1 & A-2. 350-25 (C, 6) permits one sign per ownership or lease in A-1 & A-2, with max 6 sq.ft. and 8' height.

**Commented [JMM17]:** 350-25 (D, 3) permits B&B and home occupations to have 1 sign per street frontage, max. 4 sq.ft., max. 3' height in R-1. However, 350-25 (D,7) permits 8' height unless a lower height is specified. 350-25 (E,1) appears set R-2 standards same as R-1. 350-25 (F, 1) and (G-1) apply R-2 standards to residential uses in B-1 and B-2.

**Commented [JMM18]:** 350-25 (C, 4) permits 32 sq.ft.max. per sign and max. 8 signs in A-1 and A-2 for agricultural uses. 350-25 (C, 7) max 7' height in A-1 & A-2. 350-25 (D, 1) signs for ag uses same in R-1 as in A-1 & A-2. 350-25 (E, 1) R-2 same as R-1.

**Commented [JMM19]:** 350-25(G, 2) permits any sign, max 18' height, but does not apply height limit to "signs identifying the use conducted in a building or erected flat against the wall thereof". 350-25 ( F, 3) limits sign height to 28' in B-1. This appears to conflict with the stated 18' limit?

It is strongly recommended that Twp regulate commercial and non-commercial messages equally in order to avoid potential legal challenges. See next section for draft regulations for building mounted signs.

The draft 24' height is presented for Twp's consideration. We will discuss the Twp's 18' vs 28' inconsistency during a meeting, and determine Township's preferred height limit.

### 909 Building Signs

Permanent, building signs, as defined by this chapter, are subject to the number, height and sign area requirements identified in the table below, unless otherwise specified by this chapter, or unless a conditional use is approved by the Board of Supervisors.

Building Signs - Number, Height and Area Regulations			
	Maximum Number	Maximum Area (total per building unless stated otherwise)	Maximum Height
Residential Properties in A-1, A-2, R-1, R-2 and MU Districts (includes Home Occupations and Bed & Breakfast)	1/dwelling unit	4 sq. ft./dwelling unit	The eave line or the bottom of the second story window sill, whichever is lower
Residential Subdivisions of 10 or more lots; Apartment Complexes, Condominium Complexes or Multi-Family Dwellings with 5 or more units; mobile home parks; assisted living facilities; age restricted communities; and continuing care retirement communities.	1/building	1.5 sq. ft. per linear foot of building frontage facing public street or parking lot	The eave line or the bottom of the second story window sill, whichever is lower
Permitted Non-Residential Uses in A-1, A-2, R-1, R-2 and MU Districts.	unlimited	1.5 sq. ft. per linear foot of building frontage facing public street or parking lot	The eave line or the bottom of the second story window sill, whichever is lower
Properties within B-1 District	unlimited	1.5 sq. ft. per linear foot of building frontage facing public street or parking lot	The eave line of the building
Properties within B-2 District	unlimited	1.5 sq. ft. per linear foot of building frontage facing public street or parking lot	The eave line of the building

**Commented [JMM20]:** 350-25 (F, 2) permits on premises commercial use signs in B-1, but limits total sign area to 256 sq.ft. and max. 1 sign per "distinct business"  
350-25 (G, 1) B-2 same as B-1  
This draft recommends sign area limits based on the size of the building. Freestanding signs are regulated separately.

**Commented [JMM21]:** 350-25 (F, 2) and (G, 1) appear to permit any number of signs as long as total sign area is max. 256 sq.ft. However, (F,4)(G,1) limit "name of establishment" to 1 per "distinct business" per street.

It is recommended that Twp avoid regulating signs based on content.

## 910 Temporary Signs

Temporary signs, as defined in this chapter, are subject to the regulations set forth below:

- A. *Residential Uses*: Within the A-1, Preservation; A-2, Agricultural; R-1, Residential; R-2, Residential; and MU, Mixed Use districts, each legal dwelling unit may have a total display area (cumulative of all temporary signs) of 24 square feet at all times. Such signage may be used to display any protected noncommercial message, but may not be used for general advertising for hire.
- B. *Permitted Non-Residential Uses in Residential Zones*: Within the A-1, Preservation; A-2, Agricultural; R-1, Residential; R-2, Residential; and MU, Mixed Use districts, each legally permitted non-residential establishment may have a total display area (cumulative of all temporary signs) of 36 square feet at all times. Such signage may be used to display any on-premises, commercial message and/or protected noncommercial message, but may not be used for general advertising for hire.
- C. *Business Districts*: Within the B-1, Business and B-2, Business districts, the maximum total display area of all temporary signs shall be 50 square feet at all times. Such signage may be used to display any on-premises, commercial message and/or protected noncommercial message, but may not be used for general advertising for hire.
- D. *Maximum Height*: Temporary signs shall comply with the same height requirements applicable for permanent signs, and as set forth in Section 908 for freestanding signs, and Section 909 for building signs.
- E. *Removal of Temporary Signs*: Temporary signs shall be permitted for a period of thirty (30) days.

**Commented [JMM22]:** Many of the Township's current regulations for temporary signage are based on content. It is strongly recommended that in order to help avoid legal challenges all temporary signs should be subject to the same regulations, regardless of content.

**Commented [JMM23]:** Current 350-25 (B,13) limits temporary signs to 30 continuous days or 60 cumulative days per calendar year. This draft does not specify a time limit, but 910 (E) requires removal within 7 days following a transpired election or event.

**Commented [JMM24]:** 350-25 (B,13) permits temporary signs, max 32 sq.ft. in all districts. 350-25 C, 2) permits real estate signs, max 32 sq.ft. in A-1 and A-2. (F, 5) same in B-1. (G,1) same in B-2. 350-25 (D, 2) limits real estate signs to 4 sq.ft. in R-1. (D, 4) permits announcement signs for public, charitable, educational and religious uses, 1 sign, max. 32 sq.ft. in R-1. (E, 1) applies R-1 standards in R-2.

**Commented [JMM25]:** 350-25 (C, 4) permits "seasonal" agriculture signs, max 32 sq.ft. in A-1 and A-2.

## 911 Billboards

- A. *Districts Permitted*: Billboards are permitted only in the B-1 Business and B-2 Business High Impact Districts.
- B. *Sign Size*: The maximum sign area of a billboard is 100 square feet, unless a conditional use is approved by the Board of Supervisors.
- C. *Height*:
  - 1. The lowest edge of a billboard shall be at least seven (7) ft. above the finished grade.
  - 2. Billboards shall have a maximum height of 24 feet, unless a special exception is approved by the Zoning Hearing Board. However, in no case shall the height be greater than 30 feet.
- D. *Location and Spacing*: Billboards shall be:
  - 1. Located no closer to the right-of-way than a distance equal to the height of the billboard or 15 feet, whichever is greater.
  - 2. Located no closer than 25 feet from any property line
  - 3. Located no closer than 50 feet from any building, structure, or on-premises sign located on the same property.
  - 4. Located no closer than 1,000 ft. from another billboard on either side of the road measured linearly.
  - 5. Located no closer than 500 ft. from any street intersection, or interchange (on/off-ramp).

**Commented [JMM26]:** Current 350-35 (F,7) (G,1) permits billboards in B-1 and B-2. This can be retained if desired. However, for the Township's consideration, this draft recommends restricting them to B-2 for purposes of aesthetics.

(F,1) (G,1) limit billboards to 288 sq.ft. This draft recommends a limit of 100 sq.ft. unless a conditional use is approved.

**Commented [JMM27]:** 350-25 (F,1) (G,1) require billboards to comply with setbacks of underlying zoning district.

**Commented [JMM28]:** The spacing requirements for off-premises signs located along a non-limited access highway regulated by the PA Outdoor Advertising Act of 1971 appears to be 100 feet in cities and boroughs and 300 feet in townships. However, the Act appears to permit municipalities to adopt more restrictive regulations.

**Commented [JMM29]:** Review distance requirements, and revise, as needed.

Or remove them to simplify the ordinance. "E" already limits based on number per lot.

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6. Located no closer than 500 ft. from any property line abutting a public park, playground, religious institution, cemetery, school, or residential district.
  7. Not attached to the external wall or otherwise affixed to any part of any building and shall not extend over any public property or right-of-way.
  8. Not located on sewer rights-of-way, or water, electric, or petroleum pipelines.
  9. Not located on a bridge.
- E. Number of Signs per Lot: There shall be no more than one billboard per lot. Vertically or horizontally stacked signs shall not be permitted. Billboards are not included in the determination of the maximum number of signs or the maximum area of signs allowed on a property for purposes of Section 908 and Section 909 of this chapter.
- F. Content: Billboards shall not display any message or graphic of an obscene or pornographic nature as determined by the municipality.
- G. Double-Sided Billboards: Billboards may be single or double-sided, in accordance with Section 905 (D), Sign Area.
- H. Message Sequencing: Message sequencing is prohibited.
- I. Construction and Maintenance.
1. All plans for billboards shall be certified by a licensed engineer registered in Pennsylvania.
  2. All billboards shall be constructed in accordance with industry-wide standards established by the Outdoor Advertising Association of America and the Institute of Outdoor Advertising, or their successor organizations. All billboards shall be structurally sound and maintained in good condition and in compliance with the Pennsylvania Uniform Construction Code.
  3. The rear face of a single-face, billboard shall be painted and maintained with a single neutral color as approved by the municipality.
- J. Identification of Sign Owner: The name, address, and phone number of the owner of the billboard shall be identified on the structure of such sign.
- K. Landscaping: Grounds shall be maintained under and around the billboards.
- L. Additional Regulations. All billboards shall comply with any and all applicable zoning regulations, and any and all municipal, state and/or federal regulations. In the event any other applicable regulation is in conflict with the provisions of this Section, the more strict regulation shall apply.
- M. Application/Plan Requirements. In addition to any applicable requirements set forth in Section 302.05, plans submitted for billboards shall show the following:
1. The location of the proposed sign on the lot with the required sign setbacks from the property line and right-of-way.
  2. The distance to the nearest right-of-way, property line, building, structure, on-premises sign, billboard, intersection, interchange, bridge, residential district, institutional use, sewer rights-of-way, and water, electric or petroleum pipelines.
  3. Certification under the seal by a licensed engineer that the billboard, as proposed, is designed in accordance with all federal, state, and local laws, codes, and professional standards.
- N. Illumination of Billboards:
1. Billboards may be illuminated, provided that:

- a. All light sources are designed, shielded, arranged, and installed to confine or direct all illumination to the surface of the billboard and away from adjoining properties.
  - b. Light sources are not visible from any street or adjoining properties.
- O. Safety. In applying for special exception relief, the applicant bears the burden of proof to establish that the proposed billboard will not create a public health or safety hazard in the manner and location that it is proposed and in the manner by which it is to be operated.

### 912 Removal of Unsafe, Unlawful, or Abandoned Signs

- A. Unsafe or Unlawful Signs.
- 1. Upon written notice by the municipality, the owner, person, or firm maintaining a sign shall remove the sign when it becomes unsafe, is in danger of falling, or it becomes so deteriorated that it no longer serves a useful purpose of communication, or it is determined by the municipality to be a nuisance, or it is deemed unsafe by the municipality, or it is unlawfully erected in violation of any of the provisions of this Chapter.
  - 2. The municipality may remove or cause to be removed the sign at the expense of the owner and/ or lessee in the event of the owner or the person or firm maintaining the sign has not complied with the terms of the notice within thirty (30) days of the date of the notice. In the event of immediate danger, the municipality may remove the sign immediately upon the issuance of notice to the owner, person, or firm maintaining the sign.
- B. Abandoned Signs.
- 1. It shall be the responsibility of the owner of any property upon which an abandoned sign is located to remove such sign within 180 days of the sign becoming abandoned as defined in this Chapter. Removal of an abandoned sign shall include the removal of the entire sign including the sign face, supporting structure, and structural trim.
  - 2. Where the owner of the property on which an abandoned sign is located fails to remove such sign within 180 days the municipality may remove such sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the property. Where the owner fails to pay, the municipality may file a lien upon the property for the purpose of recovering all reasonable costs associated with the removal of the sign.

**Commented [JMM30]:** This model ordinance defines an abandoned sign as a sign that has not identified or advertised a current business, service, owner, product or activity for a period of at least 180 days in the case of off-premises signs, or at least 360 days in the case of on-premises signs. Once a sign meets these criteria, a property owner has 180 days to remove the sign, including all supporting structures.

### 913 Nonconforming Signs

- A. Signs legally in existence at the time of the adoption of this Chapter, which do not conform to the requirements of this Chapter, shall be considered nonconforming signs.
- B. All permanent signs and sign structures shall be brought into conformance with the sign regulations when and if any of the following occurs:
- 1. The sign is removed, relocated, or significantly altered. Significant alterations include changes in the size or dimension of the sign. Changes to the sign copy or the replacement of a sign face on a nonconforming sign shall not be considered a significant alteration.
  - 2. If more than 50% of the sign area is damaged, it shall be repaired to conform to this Chapter.
  - 3. An alteration in the structure of a sign support.
  - 4. A change in the mechanical facilities or type of illumination

5. A change in the material of the sign face.
  6. The property on which the nonconforming sign is located submits a subdivision or land development application requiring municipal review and approval.
  7. The property on which the nonconforming sign is located undergoes a change of land use requiring the issuance of a certificate of occupancy.
- C. Prior to the events listed in Section 913 (B), nonconforming signs may be repainted or repaired up to 50% of the replacement cost of the sign, the sign copy may be changed, and sign faces may be replaced provided that these actions do not increase the dimensions of the existing sign, and do not in any way increase the extent of the sign's non-conformity.

### 914 Signs on the Premises of Legally Nonconforming Uses

- A. Signs on the premises of legally nonconforming uses (such as an office in a residential area) may remain until the existing use of the premises is discontinued.
- B. If a sign wears out or is damaged (including rust, faded colors, discoloration, holes, or missing parts or informational items), or is changed for any other reason, the number, size, and area of all signs relating to the premises shall not be increased beyond the characteristics of the sign or signs that existed on that property at the time this Chapter was adopted.

**Commented [JMM31]:** 350-25 (C, 3) permits nonconforming uses in A-1 & A-2 to have one sign per street frontage with max. 32 sq.ft.  
350-25 (D, 3) limits nonconforming uses to one sign per street frontage, max 4 sq.ft. max 3' height.

### 915 Substitution Clause

Notwithstanding any provision of this Article to the contrary, to the extent that this Article allows a sign containing commercial copy, it shall allow a non-commercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Article.

**Commented [JMM32]:** The model ordinance includes a substitution clause saying that a non-commercial message may be displayed on any legal sign surface at any time. This provides a safeguard and prevents any potential problems where it could be interpreted that commercial speech is favored over noncommercial speech.

## Article 10 Criteria for Conditional Uses, Special Exceptions and Identified Permitted and Accessory Uses

### 1001 General Criteria for Special Exceptions and Conditional Uses

Special Exceptions and Conditional Uses shall only be granted if the proposed use meets the following general criteria, in addition to any specific criteria established in this chapter for the particular use (See Section 1002). In granting a Conditional Use or a Special Exception, the Board of Supervisors or the Zoning Hearing Board (as the case may be) may attach reasonable conditions and safeguards, in addition to those expressed in this chapter, as they may deem necessary to implement the purposes of this chapter.

The applicant must demonstrate that the proposed use complies with the following:

- A. The proposed use shall be consistent with the North East Area Comprehensive Plan.
- B. The proposed use shall be consistent with the purpose and intent of this chapter and the zoning district within which it will be located.
- C. The proposed use shall not be detrimental to the public health, safety or general welfare.
- D. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.
- E. The proposed use shall not substantially change the character of the neighborhood in which it would be located.
- F. The proposed use shall be adequately served by public facilities and services. Public facilities and services that may be considered include, but are not limited to water, sewer, electric, schools, streets, fire and police protection, and storm drainage.
- G. The proposed use shall be acceptable in terms of its impact on traffic volumes and/or traffic circulation, and there shall be adequate arrangements to mitigate traffic congestion, traffic circulation problems, conflicts and hazards.
- H. The proposed use shall not require a significant extension of a street, sewer facilities or water facilities if such extension would place a financial burden upon the Municipality, unless the Municipality has firm plans to extend such facilities absent the use proposed.
- I. The proposed use shall comply with all those criteria specifically listed in Section 1002 of this Chapter, as applicable.
- J. The proposed use must comply with all applicable regulations contained in this Chapter and all other applicable municipal ordinances and regulations.

### 1002 Specific Criteria Applicable to Identified Uses

In addition to all other applicable regulations of this Chapter, the following subsections set forth criteria that shall be applied to particular types of special exception uses, conditional uses, or uses permitted by right. These criteria must be satisfied prior to approval of any applications for a special exception, conditional use, or use permitted by right. The applicant shall be required to demonstrate compliance with these criteria and must furnish whatever evidence is necessary to demonstrate such compliance. In cases where more than one provision of this Chapter controls a particular matter, the provision that is more restrictive shall apply, unless stated otherwise.

**Commented [JMM33]:** All Special Exceptions and Conditional Uses must comply with the general criteria set forth in this section.

Specifically identified Special Exception Uses and Conditional Uses must also meet the additional criteria set forth in the following section, 1002.

**Commented [JMM34]:** Compare to current 350-71

Current ordinance establishes criteria for approval of conditional uses.

Current ordinance uses conditional uses frequently. Special exceptions are used in a limited number of situations.

### 1002.01 Accessory Dwelling Units (ADU)

Accessory Dwelling Units (ADU) shall be subject to the following criteria:

- A. A maximum of one ADU is permitted per lot.
- B. The ADU may be created within, attached to, or detached from, the principal dwelling.
- C. The ADU shall comply will all applicable building, health, safety, and fire codes.
- D. Utilities:
  - 1. For public sewer, public water and all other utilities (except telephone and television), the ADU shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used. All connections shall meet the applicable utility company standards.
  - 2. If an on-site sewage disposal system is to be used, use of the ADU must be approved by the PA DEP or Erie County Sewage Enforcement Officer and the sewage system shall be upgraded, if necessary.
- E. The ADU shall not be permitted within the required front yard setback and shall comply with the side and rear yard setback requirements for principal uses within the underlying zoning district.
- F. Accessory dwelling units are prohibited in front yards, between the principal dwelling and the public street, unless a special exception is approved by the Zoning Hearing Board. However, in all cases, the ADU shall comply with the front yard setback requirement of the underlying zoning district.
- G. A minimum of one parking space shall be provided for the ADU.
- H. In no case shall the size of an ADU be greater than 40 percent of the principal dwelling's habitable floor area, nor be greater than 800 square feet, nor be less than 300 square feet, unless a special exception is approved by the Zoning Hearing Board.
- I. The ADU shall contain no more than 2 bedrooms unless a special exception is approved by the Zoning Hearing Board.
- J. The exterior appearance of an addition or detached accessory dwelling unit shall be architecturally compatible with the primary residence. Compatibility includes coordination of architectural style, exterior building materials and colors, roof form and pitch, window style and placement of landscaping.

**Commented [JMM35]:** The municipality should select either option 1, 2 or 3 for inclusion in this ordinance. The other options will be removed from the draft.

**Commented [JMM36]:** Based on a maximum of 40%, the principal dwelling will need to be at least 750 sq.ft. to meet the minimum ADU requirement of 300 sq.ft. In cases where the principal dwelling is less than 750 sq.ft., a special exception will be needed.

40% of a 2,000 sq.ft. dwelling is 800 sq.ft. ADUs for larger dwellings will be capped at 800 sq.ft. unless a special exception is approved.

**Commented [JMM37]:** This criteria is included as an option for municipalities to consider. However, it may not be a good fit for all municipalities.

The term "architecturally compatible" is defined in this ordinance. However, it may still be difficult to interpret and defend in some cases.

### 1002.02 Adult-Related Uses

Adult-related uses (Adult Book Store, Adult Cabaret, Adult Theater, etc.) shall be subject to the following criteria:

- A. Any building or structure used and occupied as an adult-related use shall have an opaque covering over all windows or glass in doors in any area in which materials, merchandise, or film are exhibited or displayed, so that no sale materials, merchandise, or film shall be visible from outside of the building or structure.
- B. No sign shall be erected upon the premises pictorially depicting or giving a visual representation of the type of materials, merchandise or film offered therein.

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- C. Each entrance to the premises shall be posted with a notice specifying that persons under the age of eighteen (18) years are not permitted to enter and warning all other persons that they may be offended upon entry.
- D. No adult-related use may change to another adult-related use, except upon approval of an additional conditional use.
- E. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.
- F. No sexual activity or conduct shall be permitted.
- G. No more than one adult-related use may be located within one building.
- H. No person shall operate an adult entertainment establishment without first obtaining a Zoning Permit as provided in this Chapter and all other applicable permits required by law.

**1002.03 Agriculture**

Agricultural uses shall be subject to the following criteria:

- A. Concentrated animal feeding operations (CAFO) with over 1,000 “animal units”, as defined by the United States Department of Agriculture (USDA), shall be a minimum of three hundred (300’) feet from any property line and a minimum of five hundred (500’) from any dwelling on an adjoining property.
- B. Direct commercial sales of agricultural commodities upon property owned and operated by a landowner who produces not less than 50% of the commodities sold shall be authorized, in any zoning district. Such direct sales shall be authorized without regard to the 50% limitation under circumstances of crop failure due to reasons beyond the control of the landowner. **Farm stands and other agricultural marketing enterprises** used for the direct sale of agricultural commodities shall be subject to the requirements of this Chapter. See Section 1002.56.
- C. All manure management practices and operations shall comply with the provisions set forth in the Pennsylvania Nutrient Management Act, as amended
- D. Within the R-1 Residential and R-2 Residential Districts, the following additional criteria apply:
  - a. The minimum lot area shall be 10 acres; or the agricultural operation shall have an anticipated annual gross income of at least \$10,000.
  - b. Structures used to house poultry, livestock and/or equine animals shall have a minimum yard setback of 100 feet from side and rear property lines.

**1002.04 Agricultural Employee Housing**

Agricultural employee housing shall be subject to the following criteria:

- A. The agricultural employee housing shall be incidental to a principal agricultural operation.
- B. Occupancy shall be limited to employees of the principal agricultural operation and their families.
- C. Sufficient off-street parking spaces and off-street loading spaces shall be provided.
- D. Adequate water and sanitary facilities shall be supplied to accommodate the proposed use.
- E. Proper provision shall be assured for the collection and removal of trash and recyclable materials.
- F. The agricultural employee housing shall meet the setback requirements for a principal structure within the underlying zoning district.

**Commented [JMM38]:** Current ordinance permits agriculture in all districts, but places limitations on agriculture in some situations. See current 350-32 Animal raising & Care; 350-46 Horses, cows and similarly sized animals; and 350-47 Housing of farm animals.

**Commented [JMM39]:** Municipalities should consult with their municipal solicitor to ensure that any desired limitations or restrictions related to agricultural uses are compliant with all State and Federal laws.

The PA ASA law prohibits municipalities from “unreasonably restricting farm structures or farm practices” within an ASA unless the laws directly benefit public health or safety.

The PA Right to Farm Act limits a municipality’s ability to restrict the direct sales of agricultural products by the farmers who have produced these products.

The Agriculture, Communities and Rural Environment Act (Act 38 of 2005, a.k.a. ACRE) created a process for farmers to seek review of municipal ordinances believed to be more restrictive of agricultural operations than permitted under State Law. Farmers can request the PA Attorney General review an ordinance restricting agricultural practices.

Under ACRE, an ordinance is considered to be an “unauthorized ordinance” if it “prohibits or limits a normal farming operation” unless state law, expressly or implicitly, authorizes the enactment of the ordinance and the subject matter of the ordinance has not been preempted or prohibited by state law. To be a “normal farming operation” a farm must be 10 acres or have an anticipated annual gross income of at least \$10,000.

The PA Nutrient Management Act preempts local zoning and prohibits municipalities from regulating odor management generated from animal housing or manure management facilities; or from regulating the storage, handling or application of manure or nutrients, or to the construction, location or operation of facilities...

**Commented [JMM40]:** PA Right to Farm Act (3 PA Stat. Section 953) authorizes direct sales, and supersedes municipal zoning.

Current 350-20 regulates roadside stands. This draft regulates them in section 1002.04.

**Commented [JMM41]:** 7/26/23 Minor rewording for consistency with other parts of the ordinance.

**Commented [JMM42]:** This regulation is optional, but may be appropriate if Twp desires to regulate the non-commercial keeping of livestock, equine and poultry in its suburban residential neighborhoods.

**Commented [JMM43]:** These requirements are consistent with the State’s definition of a normal farming operation. It may be appropriate to reduce the acreage requirement. We will discuss during our meeting.

**Commented [JMM44]:** Per info from the Penn State Extension (dated 2010), 100 feet appears to be consistent with PA Nutrient Management regulations.

Current 350-47 establishes setback of only 50 feet. The draft can be revised to the current setback standard, if desired.

**Commented [JMM45]:** 7/26/23 New accessory use added in response to PC input, and a desire to permit group quarters for farm workers.

### 1002.05 Non-Commercial Keeping of Poultry, Livestock and Equine Animals

Non-Commercial Keeping of Poultry, Livestock and/or Equine Animals shall be permitted as an accessory use in the R-1 and R-2 Districts, subject to the following criteria:

- A. Applicability: The criteria and conditions in this section do not apply if one or more of the following apply:
  - 1. The lot area is 10 acres or more.
  - 2. The agricultural operation has an anticipated annual gross income of at least \$10,000
  - 3. The property is located within the A-1, Preservation or A-2, Agricultural District.
- B. Minimum setbacks from adjoining property lines for structures and/or buildings used to house noncommercial poultry, livestock and/or equine animals shall be in accordance with the underlying zoning district or as listed below, whichever is most restrictive. Should one structure be used to house a combination of animal and/or poultry types, the most restrictive setback shall apply:
  - 1. Animals or poultry less than 10 pounds: A twenty-five-foot (25') setback
  - 2. Animals or poultry greater than 10 pounds: A fifty-foot (50') setback
- C. The non-commercial keeping of livestock and/or equine shall require a minimum lot size of 5 acres.
- D. The non-commercial keeping of poultry shall require a minimum lot size of 2 ½ acres.
- E. The number of livestock and/or equine animals shall be limited to two (2) such animals for the first 2 ½ acres of land and one (1) additional such animal for each additional acre of land.
- F. The number of poultry shall be limited to six (6) poultry for the first 2 ½ acres of land and one (1) additional poultry for each additional one-half (1/2) acre of land. The number of roosters shall be limited to one (1) regardless of acreage.
- G. Structures used to house noncommercial poultry, livestock or equine animals shall be located only in the rear yard or side yard of the property on which it is an accessory use. Such structures shall be prohibited in the front yard area.
- H. Not less than one-half acre (1/2) of pasture shall be provided for each livestock and/or equine animal. All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals and/or poultry. Fences shall be set back a minimum of 10 feet from any adjoining property that is located within the R-1, R-2 or MU District.
- I. All manure management practices and operations shall comply with the provisions set forth in the Pennsylvania Nutrient Management Act, as amended.
- J. All animals and/or poultry, their housing, and their outdoor pasture/recreation areas shall be maintained so as to not become a nuisance to adjoining properties.

**Commented [JMM46]:** See Current 350-46 and 350-47. Twp's current regulations also apply within A-1 and A-2.

This section is intended to apply only in cases where agriculture is not a permitted use, either based on district/location or a minimum lot size requirement for agricultural use. Township currently permits agriculture in all districts, with no minimum acreage requirements. If those current standards are retained, then this use should be removed from the draft ordinance.

**Commented [JMM47]:** These requirements are consistent with the State's definition of a normal farming operation.

Acreage minimum can be reduced, if desired, and should be consistent with Twp's desired acreage established in draft section 1002.03, agriculture.

**Commented [JMM48]:** Current 350-46 and 350-47 apply to A-1 and A-2. However, since Twp has zoned these districts for agriculture and recognizes agriculture as being appropriate within these districts, it is recommended that Twp consider permitting agriculture with as little restriction as necessary within these districts.

**Commented [JMM49]:** The 50' setback is consistent with current 350-47.

**Commented [JMM50]:** Current 350-46 does not require a minimum lot size, except for on a per animal basis.

**Commented [JMM51]:** 350-36 (A) requires 2 acres for the first animal and 1 acre for each additional animal. Current ordinance does not appear to include minimum lot sizes applicable to poultry.

**Commented [JMM52]:** 350-46 (A) requires ½ acre pasture/animal.

**Commented [JMM53]:** Fence Setbacks have been retained from 350-46 (B&C). 350-46 (A) specifies a 4' fence. Draft does not specify fence height but requires it to be sufficient to prevent escape.

**Commented [JMM54]:** 350-47 sets 50' setback for manure storage. Recommendation is to defer to the PA Nutrient Management Act to avoid potential inconsistencies with state law.

### 1002.06 Airports, Heliports and Helistops

Airports (Public), Heliports and Helistops shall be subject to the following criteria:

- A. Minimum lot area shall be thirty (30) acres for airports and three (3) acres for heliports.
- B. The applicant shall submit evidence confirming that the facility will be constructed, operated, and maintained in accordance with applicable rules and regulations of the Federal Aviation Administration and the Pennsylvania Department of Transportation, Bureau of Aviation, related to the use of airports, heliports and/or helistops.
- C. For airports, no part of the takeoff/landing strip and/or pad shall be located within 300 feet from any property line.
- D. The applicant shall provide the delineation of the airport or heliport hazard zone to the municipality and all adjoining municipalities with land located within the hazard zone.
- E. The facilities shall not be detrimental to the health, welfare and safety of municipal residents and their property.
- F. Heliports shall meet the following additional requirements:
  - 1. The landing pad shall be clearly marked with the insignia commonly recognized to indicate same.
  - 2. The applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.
  - 3. No part of the take-off/landing strip and/or pad shall be located closer than fifteen hundred feet (1,500') from any property line.
- G. Helistops shall meet the following additional requirements:
  - 1. The applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.
  - 2. The helistop shall be located a minimum of one thousand feet (1,000') from any dwelling unit.

### 1002.07 Ultralight Airports and Private Airstrips

Ultralight Airports are intended for private use only, and shall be subject to the following criteria:

- A. All such airports shall be a minimum of three hundred (300') feet from any property line and a minimum of five hundred (500') feet from any dwelling.
- B. The operator shall present evidence that the facility complies with appropriate State regulations and has secured a license from the Pennsylvania Department of Transportation, Bureau of Aviation.
- C. There shall be no sales of fuel or other aviation services (repair, storage of other aircraft, etc.) including the sale of aircraft and/or related parts or service for transient aircraft.
- D. Providing flying lessons or conducting a flight school shall not be a permitted operation or service.
- E. No more than three (3) personal aircraft shall be based on the facility.

**1002.08 Animal Shelters, Kennels, Veterinary Clinics, and Pet Grooming Establishments**

Animal Shelters, Kennels, Veterinary Clinics, and Pet Grooming Establishments shall be subject to the following criteria:

- A. All kennels shall comply with the Pennsylvania Dog Laws as administered by the Pennsylvania Department of Agriculture and show evidence of ongoing compliance (current licenses).
- B. Dog Kennels shall be located within an enclosed building and shall be sound-proofed, if necessary, to reduce noise impacts on adjacent properties.
- C. Any outdoor runs or similar facilities shall be constructed for easy cleaning, and shall be adequately secured by a fence with a self-latching gate.

**1002.09 Assisted Living Facility**

Assisted Living Facilities shall be subject to the following criteria:

- A. Copies of all required licenses or permits issued by county, state, or federal agencies shall be submitted to the municipality, and these required licenses, certificates, or permits shall be a condition for final approval.
- B. The applicant shall present a sketch plan that includes elevations or architectural perspectives, and illustrates that the proposed building(s) will be architecturally compatible with the neighborhood.
- C. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
- D. All outdoor lighting shall be shielded and reflected away from adjoining properties.
- E. All required parking shall be accommodated on-lot, with all parking to occur in rear or side yard areas.
- F. All off-street parking and/or loading areas shall be screened from adjoining residential uses or zoning districts.
- G. Ingress, egress and internal circulation shall be designed to ensure safety and to minimize impacts on public roads.
- H. The applicant shall furnish evidence of an approved means of water supply and sewage disposal.

**1002.10 Automobile/Vehicle Service and Repair Facilities**

Service and/or Repair Facilities for Automobiles, Buses, Recreational Vehicles, Boats, Motorcycles, Snowmobiles and similar vehicles shall be subject to the following criteria:

- A. All service and/or repair activities shall be conducted within a completely enclosed building.
- B. All exterior parking and storage areas shall be screened from adjoining residential uses and districts.
- C. Service bay doors shall not face directly towards an abutting dwelling (not including a dwelling separated from the garage by a street).
- D. The outside storage of more than one (1) unlicensed vehicle is prohibited.
- E. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining residential uses or districts.
- F. All vehicles and machinery shall be repaired and removed from the premises.

- G. The demolition or junking of vehicles and machinery is prohibited.
- H. The applicant shall furnish evidence that the storage and disposal of materials will be accomplished in a manner that complies with State and Federal regulations.

#### **1002.11 Bed and Breakfast Inns**

Bed and Breakfast Inns are intended to provide overnight or short-term [not more than two (2) weeks] accommodations for transient guests in a home-like atmosphere. They shall be subject to the following criteria:

- A. A bed and breakfast inn shall be allowed only in an owner-occupied, single-family, detached residential dwelling or building(s) accessory thereto. No modification to the external appearances of the building (except fire escapes) which would alter its residential character shall be permitted.
- B. Accommodations for overnight lodging at a bed and breakfast inn shall be limited to no more than five guest rooms and to no more than 10 guests at a given time.
- C. Accommodations at bed and breakfast inns may include breakfast prepared on the premises for guests and included in the charge for the room. No meal other than breakfast may be prepared on the premises for the registered guests.
- D. No cooking facilities shall be provided or permitted in individual guest rooms.
- E. A bed and breakfast inn must conform to all zoning regulations with regard to parking, access, signs, area, setbacks, etc., as are applicable under this Chapter.
- F. All outdoor lighting shall be shielded and reflected away from adjoining properties.
- G. The use of a residential dwelling for a bed and breakfast inn must be approved by the PA DEP or Erie County Sewage Enforcement Officer and the sanitary sewage system upgraded, if necessary.
- H. All bed and breakfast inns shall comply with the Federal Life Safety Code, the rules and regulations of the Pennsylvania Department of Labor and Industry, and all other applicable building, safety, and fire codes of the federal, state, or local government.

#### **1002.12 Boarding Houses and Group Quarters**

Boarding Houses and Group Quarters shall be subject to the following criteria:

- A. There shall be a minimum of 350 square feet of habitable floor area provided for each occupant.
- B. A common kitchen and dining facility shall be provided, and no cooking or dining facilities shall be provided in individual rooms or suites. This provision is not intended to require kitchen and dining facilities if an affiliated institution provides them elsewhere.
- C. The applicant shall furnish evidence that approved systems for sewage disposal and water supply shall be used, and that all other federal and state license requirements have been met.
- D. For proposed new developments, the applicant shall present a sketch plan that includes elevations or architectural perspectives, and illustrates that the proposed building(s) will be architecturally compatible with the neighborhood.
- E. For conversion of an existing dwelling into a boarding house or group quarters, the following apply:
  - 1. Any extensions or modifications to the external appearance of the building (except fire escapes) shall complement its residential character.

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2. All floors above or below grade shall have a permanently affixed direct means of escape to ground level.
- F. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
- G. All required parking shall be accommodated on-lot, with all parking to occur in rear or side yard areas.
- H. All off-street parking and/or loading areas shall be screened from adjoining residential uses or zoning districts.
- I. Meals shall be offered only to registered tenants.

**1002.13 Campgrounds and Recreation Vehicle Parks**

Campgrounds and Recreation Vehicle Parks shall be subject to the following criteria:

- A. A subdivision or land development plan that meets all standards of the North East Township Subdivision and Land Development Ordinance shall be required.
- B. The minimum lot area shall be five (5) acres.
- C. Circulation:
  1. Traffic movements in and out of recreational developments and subdivisions shall not interfere with external traffic, nor shall they create hazards for adjacent residential areas.
  2. The design of streets, service drives and pedestrian ways shall provide for safe hazard-free internal circulation.
  3. The internal street system shall provide adequate access to individual park lots, administration and ancillary facilities.
  4. Internal street cartways shall have a minimum width of twelve (12) feet for a one way street, and twenty (20) feet for a two-way street.
  5. Paved or gravel roads shall be acceptable, but shall be dust free.
- D. Recreational Vehicle Lots and Campsite Area Requirements:
  1. Individual recreational vehicle lots and campsites shall be designed to accommodate a minimum width of thirty (30) feet and shall not be less than two thousand (2,000) square feet in total area, excluding rights-of-way. Such size is considered to accommodate parking for one (1) recreational vehicle or tent site, one (1) automobile parking space, and related outdoor facilities (grill, picnic tables, benches, etc.).
  2. The locations, widths and square footages of individual recreational vehicle lots and campsites shall be shown on the land development plan.
- E. The applicant shall present evidence that water and sanitary sewer facilities have been approved by the Erie County Department of Health and/or DEP, and are adequately sized.
- F. Applicant shall provide evidence of approved solid waste removal.
- G. At least twenty five percent (25%) of the total tract shall be reserved as either common recreation areas for the use of guests, or as conservation lands.
- H. No campsite may be within 200 feet of a pre-existing single-family dwelling. All areas that abut residential uses or districts shall be screened with a Type 3 buffer yard (screening buffer) in accordance with Section 702.02 (D) of this Chapter.

#### **1002.14 Car Wash Facilities**

Car wash facilities shall be subject to the following criteria:

- A. The applicant shall present evidence that water and sanitary sewer facilities have been approved by the Erie County Department of Health and/or DEP, and are adequately sized.
- B. Use of a water-reclamation and/or water-recovery system shall be required to capture and reuse as much water as practical and feasible.
- C. Driveway areas, wash stalls and waiting areas shall be improved with an impervious surface, and shall be maintained free of debris and obstructions.

#### **1002.15 Cemeteries**

Cemeteries shall be subject to the following criteria:

- A. A minimum lot area of five (5) acres shall be required.
- B. The owner/developer shall provide a site plan showing all proposed burial areas (both short and long range); all structures, parking areas and access and interior circulation roads. Said plan shall be prepared by a registered landscape architect, architect or engineer.
- C. A drainage plan showing existing and proposed runoff characteristics shall be submitted with the application for municipal approval.
- D. Ingress, egress, and internal circulation shall be designed to ensure safety and minimize impact on public roads.
- E. Burial areas, structures, and circulation roads shall be located a minimum of twenty (20) feet from adjacent property lines.
- F. Burial plots and/or facilities shall not be permitted in floodplain or flood fringe areas.
- I. All areas that abut residential uses or districts shall be screened with a Type 1 buffer yard (softening buffer) in accordance with Section 702.02 (B) of this Chapter.
- G. The owner/developer shall provide appropriate procedures, documents or other legal documents which will satisfactorily assure the continued maintenance of the proposed cemetery.

#### **1002.16 Commercial Recreation, Outdoor**

Outdoor Commercial Recreation activities shall be subject to the following criteria:

- A. The applicant shall provide a written documentation of the scope of operation, and measures used to mitigate problems associated with noise, light, litter, dust and pollution.
- B. The applicant shall furnish evidence that any exterior public address system and/or exterior lighting has been arranged and designed so as to prevent objectionable impact off the site.
- C. Where an outdoor recreational use other than a golf course adjoins a residential district or residential use, trees and shrubs must be planted on the site of the recreational use so as to form an effective visual barrier between the recreational use and the residential use or district.
- D. A structure(s) exceeding the maximum permitted height may be permitted so long as it is set back from all property lines at least a horizontal distance equal to its height, plus an additional fifty feet (50'). Such structure(s) shall not be occupied for residential use.

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- E. A traffic study may be required to demonstrate safe access and control of traffic into and out of the facility. The traffic study shall include at a minimum a study of the internal traffic patterns in the off-street parking area to ensure the safe movement of traffic for pedestrians and vehicles and convenient access to nearby areas.
- F. Applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
- G. The Municipality may limit the hours of operation as a reasonable additional condition and safeguard.
- H. Outdoor paintball facilities shall also comply with the applicable requirements of Section 1002.49, Target Ranges and Paintball Facilities.

**1002.17 Communications Towers**

Communications Towers that exceed 50 feet in height, and that are not used to deploy small wireless facilities (see definition), shall be subject to the following criteria:

- A. General: The tower shall be designed, constructed, inspected, operated, maintained, repaired, modified and removed in strict compliance with all current applicable state and federal technical, and safety codes.
- B. Height: There shall be no maximum height. However, the tower shall be no greater in height than its minimum functional height. The applicant shall submit documentation justifying the total height.
- C. Setback Requirement: The minimum setback requirement from all property lines shall be a minimum of 110% of the combined height of the tower and antenna, or the underlying zoning district requirement, whichever is greater.
- D. Aviation Safety: The tower shall comply with all state and federal laws and regulations concerning aviation safety.
- E. Interference: The tower shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services.
- F. Collocation: The tower shall be designed to accommodate both the applicant's antennas and comparable antennae for future users. As a condition of approval, the applicant shall provide the municipality with a written commitment that it will allow other service providers, including public safety and emergency service providers, to collocate antennae on the tower where technically and economically feasible. The applicant will commit to negotiate, in good faith, a reasonable cost for the shared use of the tower by other service providers.
- G. Lighting: The tower shall not be artificially lighted, beyond what is required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- H. Stealth Technology: The tower and associated facilities shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact.
  - 1. The tower shall employ stealth technology and the tower shall be painted an appropriate color to harmonize with the character of the area and surrounding land uses.

**Commented [JMM55]:** Current Article XI, Wireless Communications Facilities regulates communications towers, but pre-dates FCC Ruling 18-133 which limits the Township's ability to regulate small wireless facilities, as defined by the FCC.

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2. All utility buildings and accessory structures associated with the tower shall be designed to blend into the environment in which they are situated, or shall be screened from public view by landscaping.
- I. Discontinuation: In the event that use of the tower is planned to be discontinued, the owner shall provide written notice to the municipality of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned towers or portions of towers shall be removed as follows:
  1. All unused or abandoned towers and accessory facilities shall be removed within 6 months of the cessation of operations at the site unless a time extension is approved by the municipality.
  2. If the tower and/or accessory facility is not removed within 6 months of the cessation of operations at a site, or within any longer period approved by the municipality, it will be considered a violation of this Chapter and the municipality will proceed with the enforcement remedies as outlined in Section 305.
- J. Towers 200 feet or Greater in Height: In addition to the preceding criteria, towers that are 200 feet or greater in height shall also be subject to the following criteria:
  1. Fencing: A security fence with a minimum height of 8 feet shall surround the tower, including guy wires, associated equipment, and buildings.
  2. Landscaping Plan: The applicant shall submit a landscaping plan that describes the following:
    - a. The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the tower shall be preserved to the maximum extent possible.
    - b. An evergreen screen shall be created by planting trees (a minimum of six feet tall at planting that will grow to a minimum of fifteen feet tall at maturity) on ten foot centers maximum.
    - c. Ground mounted equipment associated with, or connected to the tower shall be screened from public view using landscaping and/or screening, as described above.
  3. Access Requirements: The following shall apply:
    - a. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to the tower and any associated buildings.
    - b. Where applicable, the applicant shall present documentation to the municipality that the property owner has granted an easement for the proposed facility and maintenance responsibilities.
    - c. The easement shall be a minimum of 20 feet in width and the access road shall be improved with a dust-free, all weather surface to a width of at least 10 feet throughout its entire length.
  4. Bonding: The facility owner or operator shall post and maintain funds for removal of all structures associated with the tower in an amount 110% of the identified removal costs, as adjusted over time.
    - a. The removal funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility

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- owner or operator and participating land owner posting the financial security, provided that the bonding company or lending institution is authorized to conduct business within the Commonwealth and is approved by the municipality.
- b. An independent and certified professional engineer shall be retained by the applicant to estimate the cost of removal without regard to salvage value of the equipment. Said estimates shall be submitted to the municipality after the first year of operation and every five (5) years thereafter.

**1002.18 Convenience Stores/Automobile Fueling Stations**

Convenience Stores with Fuel Dispensing, Gasoline Service Stations and Automotive Fueling Stations shall be subject to the following criteria:

- A. Automotive fueling stations shall be prohibited within the MU Mixed-Use zoning district.
- B. A site circulation plan shall be provided that depicts the separation of fueling service areas, service station areas and convenience store areas. The plan shall show the location and dimensions of all structures, fuel pumps and location of the tank field; the location and dimensions of parking, landscaping areas and signage; and the description of internal circulation and access, in accordance with the standards herein.
- C. Minimum setbacks from street right-of-way lines for structures and/or buildings shall be in accordance with the underlying zoning district or as listed below, whichever is most restrictive:
  - 1. Pumps: 40 feet;
  - 2. Building: 50 feet;
  - 3. Canopies: 35 feet.
- D. All exterior lights of such premises shall be arranged and aligned to reflect light away from neighboring premises and public rights-of-way.
- E. Fuel delivery shall not impede traffic-flow patterns.
- F. Motor vehicles shall not be permitted to be parked on sidewalk areas.
- G. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining residential uses or zoning districts. Refer to Section 702.02 regarding buffering and screening.

**Commented [JMM56]:** The definition of “convenience store” references gasoline as a product typically provided.

Convenience stores without gasoline may be a good fit within the MU district. However, due to the characteristics of the neighborhood, automotive fueling stations may not be a good fit for the MU district.

**1002.19 Day Care Facilities, All Types**

The purpose of this section is to set forth criteria for the types of day care regulated by this Chapter (See Article 2, Definitions).

- A. Family Child Day Care Home
  - 1. Such operations must obtain any permits/certificates required by the Commonwealth of Pennsylvania.
  - 2. Within the A-1, A-2, R-1 and R-2 Districts, there shall be no outdoor advertising or signage permitted for the day care home other than a home based business or occupation identification sign, as authorized by this Chapter.
- B. Group Child Day Care Home

**Commented [JMM57]:** Defined as 4-6 children, in residential home; See PA title 55, chapter 3290

**Commented [JMM58]:** Include districts, as desired by municipality.

**Commented [JMM59]:** Defined as 7-15 children; See PA title 55, chapter 3280

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1. Such operations must obtain any permits/certificates required by the Commonwealth of Pennsylvania.
  2. Within the A-1, A-2, R-1 and R-2 Districts, there shall be no outdoor advertising or signage permitted for the day care home other than a home based business or occupation identification sign, as authorized by this Chapter.
  3. The use shall not require internal or external alterations or construction features which are not customary to a dwelling (except fire and safety requirements).
  4. Any outdoor play area shall be effectively screened from adjoining residential uses.
  5. Safe off-street “pick up” and “drop off” points shall be provided in order to minimize traffic congestion. The passenger “pick up” and “drop off” points shall be arranged so that the passengers do not have to cross traffic.
- C. Child Day Care Center
1. Such operations must obtain any permits/certificates required by the Commonwealth of Pennsylvania.
  2. Any outdoor play area shall be effectively screened from adjoining properties.
  3. Safe off-street “pick up” and “drop off” points shall be provided in order to minimize traffic congestion. The passenger “pick up” and “drop off” points shall be arranged so that the passengers do not have to cross traffic.
- D. Day Care Center for Adults
1. Such operations must obtain any permits/certificates required by the Commonwealth of Pennsylvania.
  2. Any outdoor recreation area shall be effectively screened from adjoining properties.
  3. Safe off-street “pick up” and “drop off” points shall be provided in order to minimize traffic congestion. The passenger “pick up” and “drop off” points shall be arranged so that the passengers do not have to cross traffic.

**Commented [JMM60]:** Include districts, as desired by municipality.

**Commented [JMM61]:** Defined as 7 or more children; facility not used as residence.; See PA title 55, chapter 3270

### 1002.20 Drive-through Facilities for Commercial Uses

Drive-through facilities for commercial uses shall be subject to the following criteria:

- A. All property lines adjoining a residential use or district shall have a buffer yard of ten feet (10') as measured from the property line.
- B. Entrance and exit driveways shall be clearly marked.
- C. The alignment of driveways for order and pickup purposes shall be so arranged or screened to avoid headlight glare on adjacent residential uses or districts.
- D. Auto/pedestrian circulation shall be designed to allow adequate sight distance between patron entrances/exits and drive-through lanes.
- E. Outside speakers shall not be audible from any residential use or district.
- F. A solid wall of at least twenty-four (24) inches in height shall be emplaced along any portion(s) of a drive-through lane that abuts a sidewalk.
- G. All drive-through lanes shall have an off-street stacking area sufficient to prevent traffic backups onto adjoining roads.

#### **1002.21 Emergency Medical Treatment Facility**

Emergency Medical Treatment Facilities shall be subject to the following criteria:

- A. The building(s) shall be compatible both in design and function with the general character of the area in which it is proposed to be located.
- B. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining residential uses or districts.
- C. All lights shall be fully shielded and directed away from adjoining property.
- D. The entrance and exit for the facility shall be so designed as to allow adequate sight distances and generally ensure a safe entrance onto public roads.

#### **1002.22 Emergency Services Stations**

Emergency Services Stations shall be subject to the following criteria:

- A. The building(s) shall be compatible both in design and function with the general character of the area in which it is proposed to be located.
- B. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining residential uses or districts.
- C. All lights shall be fully shielded and directed away from adjoining property.
- D. The entrance and exit for the facility shall be so designed as to allow adequate sight distances and generally ensure a safe entrance onto public roads.
- E. Fire stations are also subject to the following:
  - 1. Sufficient off-street parking area shall be provided to accommodate fund raising and social activities which may be held within the building(s). Examples of such activities include but are not limited to fund raising events, bingo games, banquets, receptions, dinners, etc.
  - 2. There shall be adequate space in front of the fire station so trucks and equipment may be backed into their parking bays without using public roads.

#### **1002.23 Essential Service Structure, Class 2**

Structures associated with Class 2, Essential Services, as defined by this Chapter, shall be subject to the following criteria:

- A. The structure(s) shall be landscaped to present a minimum intrusion upon the neighborhood.
- B. Notwithstanding any other section of this Chapter, the structure(s) may be enclosed by a security fence with a maximum height of eight (8) feet, except that a maximum height of twelve feet (12') shall be permitted where the applicant proves to the Board of Supervisors that such height is necessary to protect public safety around a specific hazard, such as around an electric substation.
- C. The structure(s) shall not be used for offices, garages, power generation, repair or large-scale storage.
- D. No storage of vehicles or movable equipment or material shall be permitted outside of a building.
- E. The Board of Supervisors may grant an exemption from, or reduction of, lot and yard requirements.

#### **1002.24 Farmers Market and/or Flea Market**

Farmers Markets and/or Flea Markets shall be subject to the following criteria:

- A. The retail sales area, as defined in Article 2, shall be set back at least fifty feet (50') from all property lines, and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment.
- B. Off-street parking shall have an all-weather, dust free surface.
- C. Off-street loading shall be calculated upon the retail sales area and according to the schedule listed in Section 813 of this Ordinance.
- D. The outdoor display and/or sale of merchandise shall not begin prior to one (1) hour before official sunrise and shall cease no later than one (1) hour after official sunset.
- E. Any amplified public address system shall be arranged and designed so as to prevent objectionable impact on adjoining properties.
- F. Exterior trash receptacles shall be provided amid any outdoor retail sales area. Such trash receptacles shall be routinely emptied so as to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of litter.

#### **1002.25 Funeral Homes, Mortuaries and Crematoriums**

Funeral homes, Mortuaries and Crematoriums shall be subject to the following criteria:

- A. The applicant shall furnish evidence that the use of materials and disposal of wastes will be accomplished in a manner which complies with State and Federal regulations.
- B. Parking shall be designed to prevent traffic backups onto adjoining roads.
- C. A one-hundred-foot off-street stacking area for the formation of the funeral procession shall be provided on the site.

#### **1002.26 Golf Courses**

Golf Courses shall be subject to the following criteria:

- A. The construction of a golf course shall be considered a "land development" and subject to all appropriate requirements of the North East Township Subdivision and Land Development Ordinance.
- B. The minimum lot area shall be not less than: 45 acres for a par 3, 18 hole course; 60 acres for a 9 hole golf course; and 100 acres for a regulation 18 hole course.
- C. A golf course may include the following accessory uses:
  - 1. A clubhouse with a pro shop, offices, restaurant/snack bar, game room, and childcare room.
  - 2. Golf cart maintenance and equipment storage and service facilities.
  - 3. Practice putting greens and driving range, without outdoor lighting.
  - 4. Hiking, bicycling, horseback riding, and cross-country ski trails
- D. All golf course buildings shall be set back a minimum of seventy-five feet (75') from any adjoining roads, a minimum of one hundred feet (100') from adjoining residential use or district, and a minimum of fifty feet (50') from all other property lines.

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- E. Any points where the golf course crosses a road or driveway shall be signed to warn motorists and pedestrians.

**1002.27 Home Based Business or Occupation**

Home based businesses or occupations that do not meet all of the criteria of a no-impact home based business shall be subject to the following criteria:

**Commented [JMM62]:** Compare to current 350-31.

- A. The home-based business or occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- B. There shall be no exterior evidence of the use other than a home-based business or occupation identification sign, as authorized by this Chapter.
- C. A home-based business or occupation may be conducted in either a principal or an accessory structure, but in either case shall not occupy floor area greater than thirty percent (30%) of the habitable floor area of the dwelling.
- D. The use shall not require internal or external alterations or construction features which are not customary to a dwelling.
- E. There shall be no storage of materials or equipment outside an enclosed building.
- F. The business activity must 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.
- G. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- H. Adequate parking for the home-based business or occupation shall be provided on the lot.
- I. There shall be no more than two (2) employees who are not residents of the premises.
- J. Home based businesses or occupations may include, but are not limited to the following:
  - 1. Dressmaking, sewing, and tailoring, provided that no laundry service, pressing or cleaning is done on the premises
  - 2. Painting, sculpting, writing
  - 3. Telephone answering
  - 4. Home crafts such as model making, rug weaving, wood working, and ceramics
  - 5. Computer programming
  - 6. Architectural, engineering, drafting or graphic services
  - 7. Accounting services
  - 8. Offices
  - 9. Internet based services where customers are not coming to the home
  - 10. Any other similar use as determined by the Zoning Hearing Board

**Commented [JMM63]:** Consistent with 350-31 (B, 3 and 6).

**Commented [JMM64]:** Current 350-31 (B, 2) permits only 1 employee. The draft can be revised to the current standard, if desired.

**1002.28 Home Based Business (No Impact)**

No-Impact, Home Based Businesses shall be subject to the following criteria:

- A. The home-based business or occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- B. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- C. The business shall employ no employees other than family members residing in the dwelling.
- D. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- E. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- F. The business activity must 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.
- G. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- H. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five percent (25%) of the habitable floor area.

**1002.29 House of Worship**

Houses of Worship shall be subject to the following criteria:

- A. For proposed new developments, the applicant shall present a sketch plan that includes elevations or architectural perspectives, and illustrates that the proposed building(s) will be architecturally compatible with the neighborhood.
- B. For conversion of an existing dwelling into a house of worship, the following apply:
  - 1. Any extensions or modifications to the external appearance of the building (except fire and safety requirements) shall complement its residential character.
  - 2. All floors above or below grade shall have a permanently affixed direct means of escape to ground level.
- C. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
- D. All required parking shall be accommodated on-lot, with all parking to occur in rear or side yard areas.
- E. All off-street parking and/or loading areas shall be screened from adjoining residential uses or zoning districts.
- F. The applicant shall furnish evidence of an approved means of water supply and sewage disposal.
- G. Residential uses (Rectories, Convents, etc.) that are related to the house of worship shall be subject to the following criteria:
  - 1. All such uses shall be accessory, and located upon the same lot as the house of worship.
  - 2. All such uses shall comply with all requirements of Section 1002.12, Group Quarters.
- H. Educational or Day Care Facilities related to the house of worship are subject to the following:
  - 1. All such uses shall be accessory, and located upon the same lot as the house of worship.

2. Day care facilities shall comply with the requirements of Section 1002.19, Day Care Facilities.
3. If education or day care is offered below the college level, an outdoor play area shall be provided, at a rate of sixty-five (65) square feet per individual enrolled. Off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall be set back a minimum of twenty-five feet (25') from all property lines. Outdoor play areas shall be screened from adjoining residential uses or districts. All outdoor play areas must provide a means of shade, such as shade tree(s), pavilion(s), or other shading devices.
4. Enrollment shall be defined as the largest number of students and/or children under supervision at any one time during a seven-day period.
5. Passenger "drop off" areas shall be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.
6. All educational or day care uses shall be governed by the location, height, and bulk standards imposed upon principal uses within the underlying zone unless otherwise provided in this Section.

#### **1002.30 Hunting, Fishing, Skiing, Target Shooting, and Boating Clubs or Resorts**

Hunting, fishing, skiing, and boating clubs or resorts shall be subject to the following criteria:

- A. All off-street parking shall be set back a minimum of thirty feet (30') from any adjoining property lines.
- B. Outdoor recreation/activity areas shall be set back a minimum of fifty feet (50') from all property lines.
- C. No shooting ranges shall be permitted unless approved under the provisions of Section 1002.49.
- D. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
- E. Where overnight facilities are provided, one (1) parking space shall be provided for each guest sleeping room or each three bunks, plus one (1) per employee.

#### **1002.31 Man-Made Lakes, Dams, Ponds and Impoundments**

- A. Man-made lakes, dams, ponds and impoundments shall be subject to all state and/or federal requirements.
- B. Setbacks: The minimum setback requirements for Man-made lakes, dams, ponds and impoundments shall be equivalent to the required minimum setback for a principal use in the underlying zoning district, except that in no case shall the minimum setback from any property line or road right-of-way be less than fifty feet.
- C. All such man-made lakes, dams, ponds and impoundments shall be maintained so as not to pose a nuisance by reason of odor, or the harboring of insect, vermin, or both.
- D. No such man-made lakes, dams, ponds and impoundments shall be used for the commercial hatching of fish or other species within the R-2 Suburban Residential District.

**1002.32 Mineral Extraction, Surface Mining**

Surface mining, as defined by this chapter, shall be subject to the following criteria:

**A. Informational and Reporting Requirements:**

1. The applicant shall obtain any required permit or permits from the Department of Environmental Protection of the Commonwealth of Pennsylvania, or any successor agency thereto, and shall present such permit or permits to the municipal governing body.
2. The applicant shall present duplicate sets of the plans, specifications, applications and supporting data that have been or shall be presented to the Department of Environmental Protection for review to the municipal governing body. If a conditional use is granted, the operator shall continue to present such documentation to the municipality when it is submitted to the Department of Environmental Protection.
3. At the time of application for a conditional use, an operations statement shall be submitted which shall include a detailed description of methods for satisfactorily handling operations with respect to the emission of noise, dust, blast, smoke, refuse matter or water, odor, gas, fumes or similar substances or conditions which may endanger the health, safety or general welfare or which can cause any soiling or staining of persons or property beyond the property line. All such operations statements shall be in full compliance with all applicable state and federal statutes and regulations of this Chapter.
4. The operator shall maintain and make available to the public at its office all permits and approved plans required by all governmental regulatory agencies having jurisdiction over the permitting, operation, maintenance and/or reclamation of such a facility.
5. The operator shall provide the municipality with copies of any notices of violation received from the Department of Environmental Protection or U.S. Environmental Protection Agency within two weeks from the date such notice of violation was received by the operator.
6. The municipality shall have the right, but not the duty, to inspect the surface mining site and operations at any given time during normal business hours.

**B. Standards:**

1. Operation of the facility shall at all times comply with all applicable state and federal statutes and regulations. This shall include, but not be limited to, the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, P.L. 10993 No. 219, as amended, 52 P.S. paragraph 3301 et. seq., or any subsequent amendment or enactment of the Pennsylvania General Assembly regulating mining, and the regulations of the Department of Environmental Protection implementing such statutes.
2. The operation shall not create any damage to the health, safety or welfare of the municipality or its residents or property owners.
3. Any pollution, soil erosion and sedimentation control, and other environmental problems created during the operation, including the production, transportation, processing, stockpiling, storage and disposal of products, by-products and wastes, shall be corrected by the operator.

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4. The operation shall be conducted in a manner which will not allow water to collect and permit stagnant water to remain in any quarries or excavations.
5. A minimum lot area of ten (10) acres shall be required for any mineral extraction, surface mining operation.
6. The operator shall limit and control access to the site, as needed and appropriate, to protect public health, safety and welfare. The municipal governing body may require security fencing and/or other conditions to help insure public health, safety and welfare.
7. The operation shall comply with Section 706, Performance Standards of the ordinance.
8. Blasting and detonation operations shall not exceed the blasting parameters established by the Pennsylvania Bureau of Mining and Reclamation, and shall conform to all applicable regulations of the Commonwealth of Pennsylvania and the federal government. The storage of explosives shall be in accordance with all applicable local, state and federal laws.
9. Setbacks: The following minimum setback requirements shall apply to surface mining operations unless pre-empted by state or federal law.
  - a. A minimum of 100 feet from any public road right-of-way.
  - b. A minimum of 300 feet from any occupied dwelling house or commercial or industrial building, unless released by the owner thereof.
  - c. A minimum of 300 feet from any public building, school or community or institutional building.
  - d. A minimum of 300 feet from a public park.
  - e. A minimum of 100 feet from any cemetery or the bank of any stream.
10. Buffer Yard and Planting Strip: A 100-foot buffer yard shall be required along all adjacent property boundary lines and public road rights-of-way. The buffer yard shall meet the requirements of a Type 3 buffer yard (screening buffer), in accordance with Section 702.02 (D) of this Chapter, unless the buffer requirement is waived or modified by the governing body based on a consideration of the proximity of adjacent residential uses or residential zoning districts.
11. The municipality may reasonably limit the hours of operation of the surface mining operation and of related trucking operations to protect the character of residential areas.
12. Suitability and Maintenance of Roads:
  - a. The surface mining operation shall front upon, and gain access from, an arterial or collector road, as defined in this Chapter.
  - b. Truck access shall be designed to minimize traffic hazards and inconveniences. Trucks leaving the site shall not deposit accumulating amounts of mining products, dirt, mud or other such substances on public roads.
  - c. The applicant shall provide a map showing the public roads in the Township proposed to be used to access the operation. It is the responsibility of the applicant to prove to the satisfaction of the governing body that the public road system to be used will be adequate for the amount of heavy truck traffic to be created.

- d. Bonding: The municipal governing body may require the applicant to provide an analysis, prepared by a qualified professional engineer, documenting the physical conditions of the roads serving the site. At the governing body's sole discretion, the applicant may be required to post such reasonable and necessary bonds to provide for any serious or extraordinary damage that may result from the use of municipal roads by heavy trucks from the mining operation.
  - e. The municipal governing body may require a traffic study, prepared by a qualified professional engineer. If the traffic study demonstrates that improvements to municipal or State roads shall be required in order to serve the proposed use or to alleviate the direct impacts of the proposed use upon the traffic network, the applicant shall make and/or guarantee cost of such improvements.
13. Reclamation: As a condition of approval, the operator shall certify that, after the termination of operations, he/she will rehabilitate the site, in accordance with the reclamation plan and all applicable state and federal regulations, to a non-hazardous state that will permit some economically productive future use, and mitigate environmental degradation.
- C. Expansion of Nonconforming Mineral Extraction Operations: Surface mining operations which are nonconforming due to location in a zoning district where such operations are not permitted by Section 505, District Use Tables of this chapter may expand to the limits of the Pennsylvania Department of Environmental Protection permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this chapter.

#### **1002.33 Mobile Home Parks**

Mobile Home Parks shall be subject to the following criteria:

- A. Mobile Home Parks shall fully comply with the requirements set forth by the North East Township Subdivision and Land Development Ordinance.
- B. The minimum lot area shall be five (5) acres.

#### **1002.34 Multiple Family Dwellings (5 or more units)**

Multiple Family Dwellings consisting of 5 or more dwelling units shall be subject to the following criteria:

- A. For proposed new developments, the applicant shall present a sketch plan that includes elevations or architectural perspectives, and illustrates that the proposed building(s) will be architecturally compatible with the neighborhood.
- B. For conversion of existing dwellings into apartment buildings, the following apply:
  - 1. Any extensions or modifications to the external appearance of the building (except fire escapes) shall complement its residential character.
  - 2. All floors above or below grade shall have a permanently affixed direct means of escape to ground level.
- C. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
- D. All required parking shall be accommodated on-lot, with all parking to occur in rear or side yard areas.

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- E. All off-street parking and/or loading areas shall be screened from adjoining residential uses or zoning districts.
- F. The applicant shall furnish evidence of an approved means of water supply and sewage disposal.
- G. Multiple Family Dwellings or developments consisting of ten (10) or more dwelling units shall comply with Section 702, Buffer and Screening Requirements.
- H. Multi-family residential land developments consisting of 10 or more dwellings shall reserve no less than ten percent (10%) of total lot area as passive or active recreation space for the benefit of residents. This land shall be suitable for the purpose for which it is proposed.

**1002.35 Outdoor Wood-fired Boilers**

Outdoor wood-fired boilers, as defined by this Chapter, shall be subject to the following criteria:

- A. No person shall use or operate a new or existing outdoor wood-fired boiler unless it complies with all state and municipal regulations, including but not limited to 25 PA Code §123.14, Outdoor wood-fired boilers.

**1002.36 Public Utility Buildings**

Public utility buildings, such as offices or garages shall be subject to the following criteria (See also, Section 106 C):

- A. If located within a residential district, the applicant must demonstrate that the selected location is necessary for public service and the use cannot be supplied if located elsewhere.
- B. If located within a residential district, all buildings and structures shall be designed (to the extent possible) to be architecturally compatible with the neighborhood.
- C. In any residential district, the outdoor storage of vehicles or equipment, used in the maintenance of a utility, shall be screened from adjoining roads and all properties.
- D. The Board of Supervisors may grant an exemption from, or reduction of, lot and yard requirements.
- E. Height regulations for the underlying zoning district shall be followed.
- F. The use shall emit no obnoxious noise, glare, dust, odor, vibration, electrical, or microwave disturbance, or any other objectionable impact, nuisance or safety hazard beyond the subject property.

**1002.37 Recycling Centers**

Recycling Centers for the recycling of paper, plastic, glass and metal products shall be subject to the following criteria:

- A. All operations, including collection shall be conducted within an enclosed building.
- B. There shall be no outdoor storage of materials processed, used or generated by the operation.
- C. The applicant shall provide a written documentation of the scope of operation, and measures used to mitigate problems associated with noise, fumes, dust, and litter.
- D. The applicant will be required to assure regular maintenance of the site to immediately collect stray debris.

**1002.38 Retail Business or Restaurant within the MU, Mixed-Use District**

Within the MU, Mixed-Use District, Retail Businesses and Restaurants shall be subject to the following criteria:

- A. The gross floor area of the restaurant or retail business shall not exceed 10,000 square feet.
- B. The applicant shall present a sketch plan that includes elevations or architectural perspectives, and illustrates that the proposed building will be architecturally compatible with the neighborhood.
- C. No drive through facilities shall be permitted.
- D. All required parking shall be accommodated on-lot, with all parking to occur in rear or side yard areas.
- E. All off-street parking and/or loading areas shall be screened from adjoining residential uses or districts.
- F. Solid waste dumpsters or waste containers shall comply with Section 703, and shall not be located in the front yard area.
- G. All lighting fixtures shall be shielded and directed away from neighboring properties.

**1002.39 Retail Business (20,000 square feet or larger)**

Retail Businesses with gross floor area greater than or equal to 20,000 square feet shall be subject to the following criteria:

- A. A traffic study (to be paid by developer) may be required to demonstrate safe access and control of traffic into and out of the facility. The traffic study shall include at a minimum a study of the internal traffic patterns in the off-street parking area to ensure the safe movement of traffic for pedestrians and vehicles and convenient access to nearby areas.

**1002.40 Riding Academy or Boarding Stable**

Riding Academies and Boarding Stables shall be subject to the following criteria:

- A. No more than 10 equine animals shall be kept with the exception that one additional equine animal may be kept for each additional acre of land over five acres.
- B. All animals, except while exercising or pasturing, shall be confined in a building erected or maintained for that purpose and which complies with the following requirements:
  - 1. The building shall be located a minimum of 300 feet from adjoining lot lines.
  - 2. The building shall be located a minimum of 75 feet from any public or private road right-of-way.
  - 3. The building shall have a minimum of 200 square feet of gross floor area for each equine animal.
- C. All outdoor training, show, riding, boarding or pasture areas shall be enclosed by a minimum four-foot-high fence and shall be set back a minimum of 100 feet from any adjacent residence whose owner is not the owner of this use.
- D. Satisfactory evidence must be presented to indicate that adequate storage and disposal of animal waste will be provided in a manner that will not create a public health hazard or nuisance.

- E. Parking areas shall be set back a minimum of 100 feet from adjoining lot lines.

#### **1002.41 Sanitary Landfills**

Sanitary landfills shall be subject to the following criteria:

- A. Sanitary landfills shall comply with all applicable requirements of the North East Township Code of Ordinances, Chapter 257, Article III, Sanitary Landfills.
- B. Plans for all landfills shall be approved and controlled by the Pennsylvania Department of Environmental Protection (PADEP), Bureau of Land Protection and Reclamation, Division of Solid Waste Management, and in conformance with all federal regulations and the Pennsylvania Solid Waste Management Act 97 of 1980, as amended.7 Operators of all landfills shall file with the Zoning Administrator written proof that they have met all permitting requirements and meet subsequent maintenance requirements of the PADEP.

#### **1002.42 Sawmills**

Sawmills shall be subject to the following express standards and criteria:

- A. The use shall be subject to the Performance Standards of this Chapter (See Section 706).
- B. All milling operations shall be located at least three hundred (300) feet from any existing dwelling on adjoining property and at least one hundred (100) feet from any property line.
- C. Routes to be used by hauling trucks shall be approved by the municipality. If bonding of the road(s) is required by the municipality, proof of compliance is required.
- D. Milling operation shall be discontinued from 7:00 p.m. to 7:00 a.m.

#### **1002.43 Schools, Hospitals and Nursing Homes**

Schools, Hospitals and Nursing Homes shall be subject to the following criteria:

- A. All necessary licenses or permits issued by county, state, or federal agencies shall be presented and these required licenses, certificates, or permits shall be a condition for final approval.
- B. The facility shall be located on a State road with a paved cartway.
- C. The minimum lot area for a nursing home shall be two (2) acres; the minimum lot area for a hospital shall be five (5) acres.
- D. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjacent residential uses or districts.
- E. All outdoor lighting shall be shielded and reflected away from adjoining properties.
- F. Applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
- G. Ingress, egress and internal circulation shall be designed to ensure safety and to minimize impacts on public roads.

#### 1002.44 Scrap (Junk or Salvage) Yards

Scrap (Junk or Salvage) Yards shall be subject to the following criteria:

- A. The use shall comply with the North East Township Code of Ordinances, Chapter 172, Junkyards and Scrap Yards.
- B. The outdoor area devoted to the storage of scrap or other materials shall be completely enclosed by a six foot (6') high, security fence. A vegetative screen shall be provided along the outside of the fence, facing away from the facility, with plantings at least 36 inches high and placed in a double-staggered row with not less than five feet on center between plants. The vegetation shall be evergreen and of a variety to obtain a height of at least eight feet at maturity. The use shall be screened completely from view from adjoining properties and public rights-of-way.
- C. A 100 foot buffer yard shall be required along all adjacent property boundary lines and public road rights-of-way.
- D. Operation of the facility shall at all times comply with all applicable state and federal statutes and regulations.
- E. All scrap or other materials shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water, and with no scrap or other materials piled to a height greater than eight feet (8').
- F. The burning of scrap or other materials is prohibited.
- G. The premises shall be maintained so as to not constitute a nuisance or a menace to public health and safety.
- H. No scrapyards shall be located on land with a slope in excess of five percent (5%).
- I. All junked vehicles shall be emptied of fuel, oil and other petroleum products, air conditioning fluid, anti-freeze, and batteries.
- J. The processing or storage of hazardous materials, as the same are defined by the Department of Environmental Protection, shall not be permitted, except as needed to remove vehicular fluids, batteries, and similar incidental material.

#### 1002.45 Self-Storage Facilities

Self-Storage Facilities shall be subject to the following criteria:

- A. Any lighting shall be fully shielded and directed away from adjacent properties and streets.
- B. All areas that abut residential uses or districts shall be screened from view with fencing and/or landscaping.
- C. The minimum lot area shall be two (2) acres.
- D. The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is prohibited.
- E. The outside storage of privately-owned recreational vehicles and/or boats is permitted. However, such outside storage shall not be located within the required front setback area.

**1002.46 Social Clubs and Fraternal Organizations**

Social Clubs and Fraternal Organizations shall be subject to the following criteria:

- A. The applicant shall furnish evidence as to how the use will be controlled so as not to constitute a nuisance due to hours of operation, noise, light, litter, or loitering outside the building.
- B. Sufficient screening and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining properties.
- C. All lighting fixtures shall be shielded and directed away from neighboring properties.

**1002.47 Solid Waste Processing, Transfer Stations, and/or Disposal Facilities**

Solid waste processing, transfer stations, and/or disposal facilities shall be subject to the following criteria:

- A. Copies of all required licenses or permits issued by county, state, or federal agencies shall be submitted to the municipality, and these required licenses, certificates, or permits shall be a condition for final approval.
- B. The applicant shall submit copies of all plans, specifications, applications and supporting data that have been or will be presented to the Pennsylvania Department of Environmental Protection for review to the Municipality. If a conditional use is granted, the operator shall continue to submit such documentation to the municipality when it is submitted to the Pennsylvania Department of Environmental Protection.
- C. Operation of the facility shall at all times comply with all applicable state and federal statutes and regulations. This shall include, but not be limited to, the Municipal Waste Planning, Recycling and Waste Reduction Act or any subsequent amendment or enactment of the Pennsylvania General Assembly regulating waste recycling and recovery, and the regulations of the Pennsylvania Department of Environmental Protection implementing such statutes.
- D. The minimum lot area shall be 50 acres for solid waste disposal facilities and 10 acres for solid waste transfer stations and/or processing facilities.
- E. A fence with a minimum height of eight feet shall enclose the facility. The fence used shall have openings less than three inches in any dimension, if any. A vegetative screen shall be provided along the outside of the fence, facing away from the facility, with plantings at least 36 inches high and placed in a double-staggered row with not less than five feet on center between plants. The vegetation shall be evergreen and of a variety to obtain a height of at least eight feet at maturity. The use shall be screened completely from view from adjoining properties and public rights-of-way.
- F. The applicant shall demonstrate that the water supplies for neighboring properties shall not be adversely affected by the proposed use. In order to fulfill this requirement, the applicant shall submit to the municipality a hydrogeological study performed by a qualified hydrogeologist or other similar professional. Such study shall be prepared in accordance with accepted hydrogeological standards and practices; shall contain the sources of all test data, including but not limited to wells evaluated as a part of the study; and shall clearly set forth the conclusions and recommendations of the professional.

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- G. The operator shall limit access to the site to those times when an attendant is on duty. In order to protect the public health, safety and welfare, access drives shall be secured by fences, gates, locks or other means to deny access at unauthorized times.
- H. Vehicular access shall be designed as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties.
- I. Sufficiently long vehicle-stacking lanes into the facility shall be provided so that vehicles waiting to be weighed will not back onto public roads.
- J. All access drives onto the site shall be paved for a distance of at least 200 feet from the street right-of-way line. In addition, a one-hundred-foot-long crushed stone section of access drive shall be placed just beyond the preceding two-hundred-foot paved section to help collect any mud that may be attached to a vehicle's wheels. The owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling to and from the site.
- K. The applicant shall provide an analysis, prepared by a professional engineer experienced in the field of traffic analysis, of the physical conditions of the primary road system serving the site.
- L. A traffic study shall be required to document any improvements to local or state roads which may be needed in order to serve the proposed use or to alleviate the direct impacts of the proposed use upon the traffic network. The applicant shall make all such improvements and/or provide or guarantee financial security in an amount sufficient to cover the cost of such improvements.
- M. The operator shall maintain and make available to the public at its office all permits and approved plans required by all governmental regulatory agencies having jurisdiction over the permitting, operation, maintenance and/or reclamation of such a facility.
- N. The operator shall provide the municipality with copies of any notices of violation received from the Department of Environmental Protection or U.S. Environmental Protection Agency within two weeks from the date such notice of violation was received by the operator.
- O. Litter control measures shall be implemented to prevent the scattering of materials and a plan for the cleanup of litter shall be submitted to the municipality.
- P. All municipal waste awaiting recycling or resource recovery shall be stored within an enclosed area bounded by solid walls or fences.
- Q. Solid waste processing and/or disposal facilities or operations shall be set back a minimum of 300 feet from all adjacent property lines.
- R. No structures or parking areas shall be located closer than 300 feet to any property line.
- S. The unloading, transfer and disposition of materials shall be supervised by a qualified facility operator.
- T. The use shall be subject to the Performance Standards of this Chapter (See Section 706).

**1002.48 Special Events of a Temporary Nature**

Special Events of a Temporary Nature shall be subject to the following criteria:

- A. Special Events of a Temporary Nature are allowed as conditional uses with a permit only in the MU, Mixed-Use District, A-1 and A-2 Agricultural Districts and B-1, Business District, except as follows:
  - a. The special event serves a charitable, public service or religious purpose and is approved by the Board of Supervisors.
  - b. The special event is an agritourism enterprise, as defined by this Chapter, and complies with the requirements of Section 1002.57, Agritourism Enterprises.
- B. Special Events shall not exceed 3 days in duration, exclusive of one day each for preparation and cleanup, unless an extension is approved by the Board of Supervisors.
- C. The special event shall not create significant adverse impacts to adjacent properties or the surrounding area due to light, noise, dust, odor or pollution.
- D. The special event shall not create a significant adverse impact on traffic volumes and/or traffic circulation, and there shall be adequate arrangements to mitigate traffic congestion, traffic circulation problems, conflicts and hazards.
- E. Adequate water and sanitary facilities shall be supplied to accommodate the special event. Any temporary sanitary facilities shall be removed within 48 hours after the conclusion of the event.
- F. Proper provision shall be assured for the collection and removal of trash and recyclable materials and for cleanup of such materials throughout and upon conclusion of the event.
- G. Hours of operation shall be limited to 9:00 am until 11:00 pm, on any day, unless authorized by the Board of Supervisors.
- H. All parking shall be located on the subject property or adjacent parcel(s), unless another location(s) is approved by the Board of Supervisors. Unimproved, grass overflow parking areas may be used during peak use periods, provided they are set back a minimum of 50 feet from adjoining lot lines. No parking shall be permitted in the road right-of-way.
- I. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads.
- J. All temporary signs associated with the special event shall be removed upon conclusion of the special event.
- K. Any food and beverage service uses must be associated with the special event.
- L. Any retail uses, such as gift or souvenir shops, must be associated with the special event.
- M. Any child care service uses must be associated with the special event.
- N. Access shall be provided for emergency vehicles, to all public assembly areas, all buildings, all work areas and any additional areas where emergencies may occur.
- O. Carnival and amusement rides may exceed the maximum height permitted within the zoning district in which the special event is located, provided they are set back from all property lines a minimum distance equal to their height, plus an additional fifty feet (50').

**1002.49 Target Ranges and Paintball Facilities**

Target ranges (firearms or archery) and paintball facilities shall be subject to the following criteria:

- A. Outdoor target ranges for firearms shall be subject to the following criteria.
  - 1. Minimum lot area: 10 acres
  - 2. Minimum lot width: 300 feet
  - 3. Adjacent areas must be predominately undeveloped and all range facilities including buildings, parking, and firing ranges shall be at least 200 feet from any property line or street right-of-way line. The use must also be located at least 1,000 feet from any existing residential dwelling.
  - 4. Outdoor target ranges shall not undertake activities between the hours of sunset and sunrise. The Board of Supervisors may limit hours of operation as a reasonable additional condition of approval.
  - 5. Target ranges shall illustrate that the design and direction of all firing lanes shall not present a danger to public health and safety.
  - 6. The applicant shall present a plan to minimize any noise created by activities through buffering, acoustic engineering, or topography.
  - 7. The general operation of the facility shall be conducted in such a manner that it does not detract from the general character of the area where it is located nor shall it constitute a general nuisance to the area.
- B. Outdoor target ranges for archery shall be subject to the following criteria.
  - 1. Minimum lot area: 10 acres
  - 2. Minimum lot width: 300 feet
  - 3. All range facilities including buildings, parking, and firing ranges shall be at least 200 feet from any property line or street right-of-way line.
  - 4. The use shall not present a danger to public health and safety. The applicant shall show adherence to best design practices to ensure safety.
- C. Indoor target ranges (firearms, archery or paintball) shall be subject to the following criteria:
  - 1. The use shall not present a danger to public health and safety. The applicant shall show adherence to best design practices to ensure safety.
  - 2. The applicant shall present a plan to minimize any noise created by activities through buffering, acoustic engineering, or topography.
- D. Outdoor paintball facilities shall be subject to the following criteria:
  - 1. Minimum lot area: 10 acres
  - 2. Minimum lot width: 300 feet
  - 3. Sufficient screening, buffering and/or landscaping measures shall be provided to mitigate any visual and/or audible impacts on adjoining properties.
  - 4. All paintball activity areas shall be set back at least fifty feet (50') from any property line.
  - 5. Outdoor paintball activities shall not be undertaken between the hours of sunset and sunrise. The Board of Supervisors may limit hours of operation as a reasonable additional condition of approval.

6. The general operation of the facility shall be conducted in such a manner that it does not detract from the general character of the area where it is located nor shall it constitute a general nuisance to the area.

#### **1002.50 Taverns and Nightclubs**

Taverns and Nightclubs shall be subject to the following criteria:

- A. The applicant shall furnish evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light, and/or litter.
- B. The applicant shall furnish evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building. Noise levels shall not exceed the maximum levels established in Section 706 of this Chapter.
- C. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.
- D. The site shall be located a minimum of 150 feet from any school, child or adult day care facility, community center, cultural facility or house of worship

#### **1002.51 Treatment Center/Pre-Release Detention Facility**

Treatment Centers and Pre-Release Detention Facilities shall be subject to the following criteria:

- A. The Center/Facility must be licensed where required by an appropriate government agency(s) and shall be in compliance with all applicable rules and regulations of the licensing body(s). A copy of any required license must be delivered to the municipality prior to beginning the use.
- B. The Center/Facility shall be directly affiliated with a parent institution or organization, which shall provide full-time supervision and administration to the residents of the house.
- C. A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.
- D. The residents of the Center/Facility shall reside on the premises to benefit from the services provided.
- E. The Center/Facility shall not be located within 1,000 feet of any house of worship, public recreation facility, school facility, day-care center or public library.
- F. The Center/Facility shall not be located within 1,000 feet of another Center/Facility.
- G. Each conditional use application shall be accompanied by a statement describing the following:
  1. The composition of the Center/Facility;
  2. The policies and goals of the Center/Facility and the means proposed to accomplish those goals;
  3. The characteristics of the residents and number of residents to be served;
  4. The operating methods and procedures to be used; and
  5. Any other facts relevant to the proposed operation of the Center/Facility.
- H. Any use permit granted for the Center/Facility shall be bound to the type and number of offenders listed on the application. Any change in the type or number of offenders being housed shall require a new hearing before the governing body.

**1002.52 Vehicle Sales, Rentals and Service**

Vehicle Sales, Rentals and Services shall be subject to the following standards and criteria:

- A. All repair and servicing shall be conducted within an enclosed building.
- B. All required off-street parking spaces shall be reserved for parking and shall not be used for the display of merchandise.
- C. All outdoor lighting fixtures shall be shielded and directed away from neighboring properties and public streets.
- D. All areas that abut residential uses or districts shall be screened from view with fencing or landscaping.

**1002.53 Wind Turbines, Small**

Small Wind Turbines, as defined by this Chapter, shall be subject to the following criteria:

- A. The small wind turbine shall be used solely to generate power to serve a principal and/or accessory building located on the lot on which said turbine is situated (without regard to any excess power generated going to a power grid).
- B. The small wind turbine shall be located in the side or rear yard area.
- C. The small wind turbine shall be set back from all property lines by a distance not less than the maximum height of the blade above grade level.
- D. The small wind turbine shall comply with all height and yard setback requirements of the zoning district within which it is located, but in no case shall it exceed a height of 200 feet. Small wind turbines exceeding a height of 200 feet shall be regulated as wind energy facilities, and shall be subject to the requirements of Article 14, Wind Energy Facilities, of this Chapter.
- E. Small wind turbines shall be routinely maintained and in working order. If a small turbine becomes inoperable or is taken out of service for any reason, the owner/operator shall, within 120 days from the cease of operation, repair the equipment and reestablish its intended use of power generation. In the event that the owner/operator wishes to discontinue use of the small wind turbine, the owner/operator shall have the wind turbine dismantled and removed from the property within 180 days from the cease of operation.

**1002.54 Age Restricted Community**

Age restricted housing communities shall be subject to the following criteria:

- A. The age restricted housing community shall meet all of the provisions required to qualify as “housing for older persons” pursuant to the Fair Housing Act, 423 U.S.C. 3601 § et seq. (as amended by the Housing for Older Persons Act), or subsequent amendments thereto.
- B. Permitted Uses: The following uses shall be permitted within an age restricted housing community:
  - 1. Single-family detached dwellings
  - 2. Single-family attached dwellings, including townhouses. Townhouse dwellings shall not exceed four (4) dwelling units in a row.
  - 3. Two family dwellings

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4. Multiple family dwellings (3- or 4-unit buildings)
5. Community center, hobby, craft and recreational facilities to serve the residents of the community only.
6. Chapel or other religious facilities to serve the residents of the community only.
7. Other compatible uses may be approved by the municipal governing body. Such uses shall serve the residents of the community only.

C. Design Standards:

1. Density: The maximum density shall be three (3) dwelling units per acre of the tract area, exclusive of area within the right-of-way of existing public roads.
2. Open Space/Recreation Areas: Not less than forty percent (40%) of the tract area shall be designated as common open space and/or recreation areas for the benefit of residents. This land shall be suitable for the purpose for which it is proposed.
3. Impervious Coverage: Not more than thirty percent (30%) of the tract area may be covered by impervious surfaces.
4. Lot Area, Yard and Height Regulations:
  - a. The minimum setbacks for buildings and/or structures from the tract boundary lines and public street right-of-way lines shall be in accordance with the underlying zoning district.
  - b. The minimum setback for buildings and/or structures from internal vehicular cart ways shall be twenty-five (25) feet.
  - c. Minimum setbacks between principal buildings on the same lot shall be provided in accordance with the requirements of this Chapter. See Section 607.02, Interior Yards.
  - d. Where principal uses are not located on individual lots, a building, vehicular cart way, and loading and storage area envelope shall be identified for each principal use. Such land area may include permitted accessory uses but shall not be used to satisfy the minimum common open space requirement. The building envelope shall extend a minimum of twenty-five (25) feet around the footprint of all principal structures and ten (10) feet around the footprint of all vehicular cart ways and loading and storage areas.
  - e. In the event lots are to be subdivided and sold in fee simple, regardless of whether or not they are improved with an individual dwelling unit or other building or structure, the lots shall comply with all applicable requirements of this Chapter and the North East Township Subdivision and Land Development Ordinance. This includes, but is not limited to, all lot area, yard, dimension and public street frontage requirements. See Article 6, Lot Area, Yard and Height Regulations.
  - f. Maximum Height: The maximum height for buildings and structures shall be in accordance with the underlying zoning district, unless specified otherwise by this Chapter.

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5. Pedestrian Access: A paved pedestrian system interconnecting all dwelling units, common and recreational facilities, open space and parking areas shall be provided and shall be a minimum of five (5) feet in width.
6. Access Restriction: No dwelling unit within the age restricted residential community may take access directly from a collector or arterial road. All dwelling units shall gain access from local roads, internal access roads, drives, courts, or similar arrangements.
7. Landscaping and Screening:
  - a. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
  - b. All service areas and equipment, rubbish and recycling containers, service outbuildings, and any other accessory facilities identified by the Board of Supervisors, shall be adequately screened from the view of public roads and adjacent properties using vegetative plantings, fencing, berms, or a combination of these techniques.
8. Water and Sewer: The applicant shall furnish evidence of an approved means of water supply and sewage disposal.
9. Utilities: All proposed utility lines (electrical, telephone, cable TV, internal security system lines, etc.) within the age restricted residential community shall be placed underground.
10. Lighting: Lighting facilities for residential areas, community center, roads, and parking areas, shall be provided as needed, and arranged in a manner which protects public roads and neighboring properties from direct glare or hazardous interference of any kind.

**1002.55 Continuing Care Retirement Community**

Continuing care retirement communities shall be subject to the following criteria:

- A. The continuing care retirement community shall provide at least three levels of health care including independent living, assisted living, and long-term and short-term skilled nursing care.
- B. Permitted Uses: The following uses shall be permitted within a continuing care retirement community:
  1. Residential dwelling units which are restricted to occupancy by households wherein at least one member of the household is age fifty-five (55) or older, including:
    - a. Single-family detached dwellings
    - b. Single-family attached dwellings, including townhouses. Townhouse dwellings shall not exceed four (4) dwelling units in a row.
    - c. Two-family dwellings
    - d. Multiple family dwellings (3- or 4-unit buildings)
  2. Assisted living facilities
  3. Nursing homes
  4. Common facilities that are intended for use by the residents, staff, guests of residents and prospective residents of the continuing care retirement community and do not exceed 20% of the total floor area of all structures within the community. The applicant shall

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provide assurance that the common facilities will not be open to the general public. The common facilities may include the following:

- a. Dining facilities
  - b. Medical offices and/or clinics, therapeutic and rehabilitation facilities, pharmacies and laboratories
  - c. Community center, hobby, craft and recreational facilities
  - d. Chapel or other religious facilities
5. Retail and service shops that are designed to serve only the residents, staff, guests of residents and prospective residents of the continuing care retirement community and do not exceed twenty percent (20%) of the total floor area of the common facilities
  6. Accessory uses, including but not limited to, maintenance shops, central laundry and kitchen.
  7. Child day care facilities for employees subject to the requirements of Section 1002.16.
  8. Other compatible uses may be approved by the Board of Supervisors. Such uses shall serve the residents, staff, guests of residents and prospective residents of the continuing care retirement community only.
- C. Design Standards:
1. Minimum Lot Area: The minimum lot area shall be 10 acres, exclusive of area within the right-of-way of existing public roads.
  2. Density: The maximum density shall be eight (8) dwelling units per acre, exclusive of area within the right-of-way of existing public roads. In the calculation of density, every two and one-half (2 ½) beds within a nursing or assisted living facility shall equal one dwelling unit.
  3. Impervious Coverage: Notwithstanding other sections of this Chapter, the maximum impervious lot coverage for a continuing care retirement community shall be sixty percent (60%). The minimum vegetative lot coverage shall be forty percent (40%).
  4. Lot Area, Yard and Height Regulations:
    - a. The minimum setbacks required along all adjacent property boundary lines and public road rights-of-way shall be in accordance with the underlying zoning district.
    - b. The minimum setback for buildings from internal vehicular cart ways shall be twenty-five (25) feet.
    - c. The minimum setbacks between principal buildings on the same lot shall comply with the requirements of this Chapter. See Section 607.02, Interior Yards.
    - d. Maximum Height: The maximum height for buildings and structures shall be in accordance with the underlying zoning district, unless specified otherwise by this Chapter.
  5. Pedestrian Access: A paved pedestrian system interconnecting all dwelling units, common and recreational facilities, open space and parking areas shall be provided and shall be a minimum of five (5) feet in width.
  6. Access Restriction: Nursing home facilities and assisted living facilities may be accessed directly from a collector or arterial road. However, no single-family dwelling, two family

dwelling or multiple family dwelling within the continuing care retirement community may take access directly from a collector or arterial road. These dwelling units shall gain access from local roads, internal access roads, drives, courts, or similar arrangements.

7. Landscaping and Screening:
  - a. The property shall be landscaped to present a minimum intrusion upon the neighborhood.
  - b. All service areas and equipment, rubbish and recycling containers, service outbuildings, and any other accessory facilities identified by the Board of Supervisors, shall be adequately screened from the view of public roads and adjacent properties using vegetative plantings, fencing, berms, or a combination of these techniques.
  - c. The continuing care retirement community shall comply with the buffer yard and buffer planting strip requirements for an institutional use, in accordance with Section 702.02 of this Chapter.
8. Water and Sewer: The applicant shall furnish evidence of an approved means of water supply and sewage disposal.
9. Utilities: All proposed utility lines (electrical, telephone, cable TV, internal security system lines, etc.) within the continuing care retirement community shall be placed underground.
10. Lighting: Lighting facilities for residential areas, nursing home and assisted living facilities, community center, roads, and parking areas, shall be provided as needed, and arranged in a manner which protects public roads and neighboring properties from direct glare or hazardous interference of any kind.

#### **1002.56 Agricultural Marketing Enterprises**

Agricultural Marketing Enterprises shall be subject to the following criteria:

- A. Agricultural Marketing Enterprises shall be incidental to a principal agricultural operation.
- B. At least fifty percent (50%) of the products sold must be produced on the site or on other properties located nearby and under the same ownership, except as provided for in Section 1002.56 (C).
- C. Farm stands may be located on premises owned by third parties provided the stand's operator has written permission from the land owner. In such a case, there is no requirement that at least fifty percent (50%) of the products sold must be produced on the site.
- D. Structures for agricultural marketing enterprises shall not exceed more than 50% of the aggregate of the square footage of the structures engaged in the principal use.
- E. Permanent farm stands shall not be located within the required minimum front yard setback area.
- F. Temporary farm stands used to display goods and/or temporary outdoor display areas shall be subject to the following criteria:
  - a. Temporary farm stands may be located within the required minimum front yard setback area, but shall be set back a minimum of twenty-five (25') feet from the road right-of-way.
  - b. Such stands shall be no more than one hundred and twenty (120) square feet in size.
  - c. Such structures shall be removed at the end of the growing season.

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- G. Sufficient off-street parking spaces and off-street loading spaces shall be provided.
- H. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance or interruption.

**1002.57 Agritourism Enterprises**

Agritourism Enterprises shall be subject to the following criteria:

- A. Agritourism Enterprises shall be incidental to a principal agricultural operation, and shall be related to agriculture or natural resources.
- B. For purposes of this section, Agritourism Enterprises include, but are not limited to the following, provided they are incidental to a principal agricultural operation:
  - 1. Hay rides, corn mazes, farm tours, educational exhibits, agriculturally related events, recreation related tours and activities.
  - 2. Facility rental events where the property owner is compensated for the use of the site and/or facilities, for events such as weddings, parties, company picnics, birthdays, reunions, or other social gatherings.
  - 3. Winery events such as wine tastings, winery tours and promotional events.
- C. Motorized off-road vehicle racing or other similar motor vehicle activities are prohibited.
- D. Structures for Agritourism Enterprises shall not exceed the aggregate of the square footage of the structures engaged in the principal use.
- E. No outdoor activity/event or temporary structure associated with the Agritourism Enterprise shall be located within fifty (50) feet of any property line.
- F. The Agritourism enterprise shall not create significant adverse impacts to adjacent properties or the surrounding area due to light, noise, dust, odor or pollution.
- G. Adequate water and sanitary facilities shall be supplied to accommodate the Agritourism enterprise. Any temporary sanitary facilities supplied to accommodate activities or events associated with the Agritourism enterprise shall be removed within 48 hours after the conclusion of the event.
- H. "Farm Stay" lodging shall meet the North East Township definition of a farm stay and meet the following requirements:
  - a. Owner/operator must obtain permits for water and sanitary waste systems approved by the Erie County Department of Health and/or DEP.
  - b. A design plan for the "Farm Stay" facility, prepared by a licensed engineer or architect, shall be submitted to and approved by the North East Township Planning Commission and Board of Supervisors and shall include:
    - i. Type and number of farm stay units proposed
    - ii. Occupant capacity for each unit
    - iii. Design, location and layout of farm stay lodging facilities
    - iv. Parking areas
    - v. Road access that is designed to accommodate Emergency Service vehicles and meets Township specifications
    - vi. Water and sanitary sewer permits

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- vii. Storm water management plan
  - viii. Traffic impact study
  - ix. Access to water for fire control
  - x. Owner/operator contact information
  - xi. Certification that the Farm Stays are designed and installed pursuant to current codes for the structures being proposed
- I. Proper provision shall be assured for the collection and removal of trash and recyclable materials and for cleanup of such materials throughout and upon conclusion of activities or events associated with the Agritourism enterprise.
  - J. Hours of operation shall be limited to 9:00 am until 11:00 pm, on any day, unless authorized by the Board of Supervisors.
  - K. All temporary signs associated with the special event shall be removed upon conclusion of the special event.
  - L. Any food and beverage service uses must be associated with the Agritourism enterprise.
  - M. Any retail uses, such as gift or souvenir shops, must be associated with the Agritourism enterprise.
  - N. Any child care service uses must be associated with the Agritourism enterprise.
  - O. Carnival and amusement rides may exceed the maximum height permitted within the zoning district in which the special event is located, provided they are set back from all property lines a minimum distance equal to their height, plus an additional fifty feet (50').
  - P. Agritourism enterprises/events with more than 100 attendees at one time shall comply with the following:
    - 1. The minimum lot size shall be 5 acres.
    - 2. All parking shall be located on the subject property or adjacent parcel(s), unless another location(s) is approved by the Board of Supervisors. Unimproved, grass overflow parking areas may be used during peak use periods, provided they are set back a minimum of 50 feet from adjoining lot lines. No parking shall be permitted in the road right-of-way.
    - 3. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads.
    - 4. Access shall be provided for emergency vehicles, to all public assembly areas, all buildings, all work areas and any additional areas where emergencies may occur.
    - 5. Applicant shall coordinate with local emergency services, including the fire department(s), and upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Agritourism enterprise/event.

**1002.58 Farm Occupations**

Farm Occupations shall be subject to the following criteria:

- A. Farm occupations shall be incidental to a principal agricultural operation.
- B. Farm occupations shall require a zoning permit.

- C. Structures for farm occupations shall not exceed more than 50% of the aggregate of the square footage of the structures engaged in the principal use.
- D. Sufficient off-street parking spaces and off-street loading spaces shall be provided.
- E. Adequate water and sanitary facilities shall be supplied to accommodate the proposed use.
- F. Proper provision shall be assured for the collection and removal of trash and recyclable materials.
- G. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance or interruption.
- H. Farm occupations shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

## Article 11 Airport Zoning Regulations

### 1101 Authority, Findings and Purpose

- A. This article is adopted pursuant to the authority conferred by 1984 Pennsylvania Laws 164, codified at 74 Pa.C.S.A. § 5101 et seq.
- B. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Moorhead Memorial Airpark and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Moorhead Memorial Airpark; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Moorhead Memorial Airpark. Accordingly, it is declared:
  - 1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Moorhead Memorial Airpark;
  - 2. That it is necessary in the interest of the public health, safety, morals and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
  - 3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- C. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

### 1102 Definitions Specific to Airport Zoning

The following words and phrases when used in this article shall have the meaning given to them in this section unless the context clearly indicates otherwise:

**Aircraft:** Any contrivance, except an unpowered hang glider or parachute, used for manned ascent into or flight through the air.

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**Airport:** Moorhead Memorial Airpark. Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. As used herein, the term "airport" includes public airports but excludes private airports and heliports. Public and private airports are defined separately in this section.

**Airport Elevation:** Moorhead: 805 feet. The highest point of an airport's usable landing area measured in feet above sea level.

**Airport Hazard:** Any structure or object, natural or man-made, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined by "airport hazard" in 74 Pa.C.S.A. § 5102.

**Airport Hazard Area:** Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this article and Act 164 of 1984 (74 Pa.C.S.A. § 5101 et seq) (Pennsylvania laws relating to aviation).

**Approach Surface:** A surface longitudinally centered on the extended runway center line, extending outward and upward from the end of the primary surface and at the same slope as the approach surface zone height limitation slope set forth in section 1303 of this article. In plan, the perimeter of the approach surface coincides with the perimeter of the approach surface zone.

**Approach, Transitional, Horizontal, and Conical Surface Zones:** These zones are set forth in section 1303 of this article.

**Conical Surface:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

**Department:** Pennsylvania Department of Transportation.

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

**Height:** For the purpose of determining the height limits in all zones set forth in this article and shown on the Airport Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**Horizontal Surface:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which, in plan, coincides with the perimeter of the horizontal surface zone.

**Larger Than Utility Runway:** A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

**Nonconforming Use:** Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

**Nonprecision Instrument Runway:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in section 1303 of this article.

**Person:** An individual, firm, partnership, corporation, company, association, jointstock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. For military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth section 1303 of this article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

**Private Airport:** An airport which is privately owned and which is not open or intended to be open to the public as defined in 74 Pa.C.S.A. § 5102.

**Public Airport:** An airport which is either publicly or privately owned and which is open to the public as defined in 74 Pa.C.S.A. § 5102.

**Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

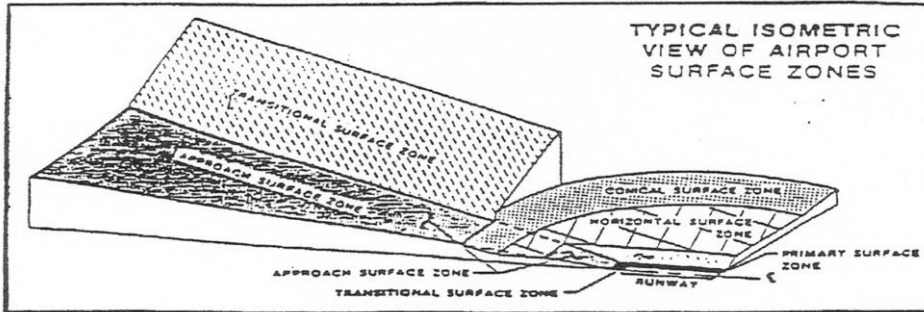
**Structure:** An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**Transitional Surfaces:** These surfaces extend outward at 90° angles to the runway center line and the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90° angles to the extended runway center line.

**Tree:** Any object of natural growth.

**Utility Runway:** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

**Visual Runway:** A runway intended solely for the operation of aircraft using visual approach procedures.



### 1103 Airport Surface Zones

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Moorhead Memorial Airpark. Such zones are shown on the Moorhead Memorial Airpark Height Limitation and Zoning District Map prepared by the Pennsylvania Department of Transportation, Bureau of Aviation, and dated Spring 1989, which is incorporated herein. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Utility runway visual approach surface zone. Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is 250 feet wide. The zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
- B. Transitional surface zones. Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.
- C. Horizontal surface zone. Established beneath the horizontal surface, 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal surface zone does not include the approach surface and transitional surface zones.
- D. Conical surface zone. Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward there from a horizontal distance of 4,000 feet.

### 1104 Airport Surface Zone Height Limitations

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow, in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

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- A. Utility runway visual approach surface zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
- B. Transitional surface zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, which is 805 feet above mean sea level.
- C. Horizontal surface zone. Established at 150 feet above the established airport elevation or at a height of 955 feet above mean sea level.
- D. Conical surface zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation and extending to a height of 350 feet above the established airport elevation or at a height of 1,155 feet above mean sea level.
- E. Excepted height limitations. Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 75 feet above the surface of the land.

### **1105 Airport Zoning Requirements**

- A. Reasonableness. All airport zoning regulations adopted under this article shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this article. In determining what regulations it may adopt, the municipality shall consider, among other factors, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood and the uses to which the property to be zoned is put and adaptable.
- B. Use restrictions. Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### **1106 Nonconforming Uses**

- A. Regulations not retroactive. The regulations prescribed by this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this article, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 1307. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently executed.
- B. Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by

the Board of Supervisors or its appointed official to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of North East Township.

## 1107 Permits and Variances

- A. Future uses.
1. Except as specifically provided hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with this section.
    - a. In the area lying within the limits of the horizontal zone and conical zone, no permit under this article shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
    - b. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required under this article for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.
    - c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required under this article for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.
  2. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure, or growth of any tree, in excess of any of the height limits established by this article, except that no permit is required under this article to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.
- B. Existing uses. Before any nonconforming structure may be replaced, substantially altered or rebuilt, or tree allowed to grow higher or replanted, a permit must be secured from the municipality authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments thereto or than it is when the application for a permit is made.

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- C. Nonconforming uses abandoned or destroyed. Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this article.
- D. Variance.
  - 1. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the Zoning Hearing Board for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of section 1308 are satisfied. A variance may be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of the regulations and this article. Any variance may be granted subject to any reasonable conditions that the Zoning Hearing Board may deem necessary to effectuate the purposes of this article.
  - 2. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of this article may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) for advice as to the aeronautical effects of the variance. If the Airport Manager (or person of equivalent description) does not respond to the application within 15 days after receipt, the Zoning Hearing Board may act without such input to grant or deny said application.
- E. Hazard marking and lighting. In granting any permit or variance under this section, the Board shall, if it deems the action advisable to effectuate the purpose of this article and reasonable under the circumstances, so condition the permit or variance as to require the owner of the structure or object of natural growth in question or the person or persons requesting the permit or variance to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA.

### **1108 Enforcement/Notice**

- A. Local enforcement. It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this article to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Zoning Hearing Board shall be forthwith transmitted by the Zoning Administrator.
- B. Notice to Department. Notwithstanding any other provision of law, if the Zoning Hearing Board decides to grant a permit or variance under this article, the Board shall notify the Department of

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Transportation of its decision. This notice shall be in writing and shall be sent so as to reach the Department at least 10 days before the date upon which the decision is to issue.

**1109 Zoning Hearing Board**

- A. Powers. The North East Township Zoning Hearing Board shall have and exercise the following powers:
  - 1. To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this article;
  - 2. To hear and decide special exceptions to the terms of this article upon which such Board under such regulations may be required to pass; and
  - 3. To hear and decide specific variances.
- B. Findings of fact/conclusions of law. The Zoning Hearing Board shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.
- C. Voting. The concurring vote of a majority of the members of the Zoning Hearing Board shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect variation to this article.

## Article 12 Conservation Subdivision Design

### 1201 Definitions Specific to Conservation Subdivisions

The following words, terms and phrases, when used in this chapter, unless the context indicates otherwise, shall have the following meanings ascribed to them:

**Common Facilities:** All the real property and improvements, owned in common by residents within the development, which is served by the facilities. Common facilities may include, but aren't limited to, landscaped areas, buffers, greenway land not included within title lines of any privately owned lot, and street rights-of-way not dedicated to the municipality.

**Community Association:** A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by members of the association or by the association, and to protect and enhance the value of the property owned individually by each of the members. Homeowners Associations and Condominium Associations are types of Community Associations.

**Condominium Association:** The community association that owns, administers and maintains the common property and common elements of a condominium.

**Conservancy Lot:** A large, privately owned and maintained lot that contains part of the required Greenway land in a conservation subdivision.

**Conservation Areas, Primary:** Lands upon which primary resources are located in conservation subdivisions. All primary conservation areas are required to be included within greenway lands. See Section 1212 of this chapter.

**Conservation Areas, Secondary:** Lands containing secondary resources that are conserved as a part of greenway land. See Section 1212 of this chapter.

**Conservation Subdivision (Conservation Subdivision Design):** A development concept that conserves special open spaces and natural resources using an approach called Growing Greener.

**Constrained Land:** Selected resources listed in the zoning ordinance, multiplied by a protection factor and totaled. See Section 1206.04 (B, 2) of this chapter.

**Greenway Land:** A parcel or parcels of land and/or water, within a conservation subdivision, set aside for the protection of natural and cultural resources. Greenway land consists of Primary and Secondary Conservation Areas and is permanently restricted against further development. The terms "greenway" and "greenway land" are synonymous.

**Growing Greener:** A development approach designed to conserve special open spaces and natural resources in a community using the techniques generally set forth by the Growing Greener Workbook of 1999, as prepared for the Pennsylvania Department of Conservation and Natural Resources by the Natural Lands Trust.

**Homeowners Association:** A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community owned property. This term is synonymous with property owners association.

**Primary Conservation Area:** See Conservation Areas, Primary.

**Resources, Primary:** Selected resources that are prioritized for conservation within a conservation subdivision. In conservation subdivisions, all lands containing primary resources are called primary conservation areas. See Section 1212 of this chapter.

**Resources, Secondary:** Natural or cultural features located outside of primary conservation areas that are worthy of conservation by inclusion in greenway land. Lands containing secondary resources that are conserved as part of a conservation subdivision are called secondary conservation areas. See Section 1212 of this chapter.

**Secondary Conservation Area:** See Conservation Areas, Secondary

**Steep Slope:** Areas of land, 3,000 square feet or greater, where the grade is 15 percent or greater. Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over 3 consecutive 2-foot contour intervals (6 cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice in Pennsylvania.

**Tract:** An area, parcel, site, piece of land, or property that is the subject of a development application.

**Tract Area, Adjusted:** The net tract area less the constrained land, less an allowance for infrastructure, such as new roads, that may be needed to support the proposed subdivision.

**Tract Area, Gross:** The total amount of land contained within the limits of the legally described property lines bounding the tract.

**Tract Area, Net:** The total amount of land contained within the limits of the legally described property lines bounding the tract, excluding public and private road rights-of-way.

**Woodlands:** A tree mass or plant community, covering an area of  $\frac{1}{4}$  acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy.

## 1202 Purpose and Intent

North East Township recognizes the importance of preserving open space and the amenities it provides. As such, the North East Area Comprehensive Plan supports land use policies and regulations designed to preserve open space, the environment, and its natural and cultural resources. It is the intent of this section of the Zoning Ordinance to implement the Comprehensive Plan by providing for conservation subdivisions

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in North East Township, subject to reasonable design standards and conditions that serve the following purposes:

- A. To allow for greater flexibility and creativity in the design of residential developments;
- B. To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including water bodies and wetlands, and historical and archeological resources;
- C. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- D. To minimize the total amount of disturbance on the site;
- E. To further the goals and policies of the North East Area Comprehensive Plan;
- F. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
- G. To promote interconnected greenways and corridors throughout the municipality.
- H. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.

### 1203 Applicability

- A. Residential Subdivisions:
  - 1. Conservation Subdivision Design shall be required for all major residential subdivisions, unless otherwise exempted under Section 1203 (A, 2) of this Chapter.
  - 2. Residential subdivisions shall be exempt from the conservation subdivision design requirement if one or more of the following apply:
    - i. Total net tract area is less than 10 acres; or
    - ii. Less than 5 new lots (5 new lots and 1 residual lot) will be created, whether proposed initially or cumulatively.
- B. Condominium Developments:
  - 1. Conservation Subdivision Design shall be required for all condominium developments unless otherwise exempted under Section 1203 (B, 3) of this Chapter.
  - 2. In the case of a condominium development, the development shall be designed, and the dwellings shall be sited in such a way that the requirements of this Chapter could physically be able to be met as if the dwellings were located on fee-simple lots. However, for a condominium development, the actual lot lines do not need to be legally established.
  - 3. Condominium developments shall be exempt from the conservation subdivision design requirement if one or more of the following apply:
    - i. Total net tract area is less than 10 acres; or
    - ii. Less than five (5) single-family detached dwelling units will be created, whether proposed initially or cumulatively.
- C. Conservation Subdivision design shall not be required within the MU, Mixed Use zoning districts.

- D. Conservation Subdivision design shall not be required for Age Restricted Communities developed in accordance with Section 1002.54 of this Chapter or for Continuing Care Retirement Communities developed in accordance with Section 1002.55 of this Chapter.
- E. Conservation Subdivision Design shall not be required for non-residential subdivisions.

### 1204 Development Options

In order to achieve the purposes in Section 1202 above, the following development options are permitted in various zoning districts. Refer to Section 505, District Use Table for permitted locations for each development option.

- A. Option 1: Neutral Density and Basic Conservation, providing for residential uses at the density permitted by the underlying zoning, with at least 50 percent greenway land. This approach allows flexibly-designed layouts that work well with individual wells and septic systems, located either on the lots or in the required greenway land, or with public or community water and/or sewer.
- B. Option 2: Enhanced Density with Greater Conservation, providing for residential uses at a density greater than Option 1, with at least 60 percent greenway land. Developments utilizing this option shall be served by public sewer.
- C. Option 3: Large Lot Option, providing for residential uses in conventional layouts, at reduced densities, with common greenway land permitted but not required.
- D. Combining the Design Options: The development options permitted in this section may be combined at the discretion of the governing body, based upon demonstration by the applicant that such a combination would better fulfill the purposes set forth in this Article, as compared with applying a single option to the property. When more than one option is applied to a development tract, the applicant shall clearly indicate the boundaries of each option.

### 1205 General Regulations

- A. Except where specifically stated otherwise, all applicable standards and regulations in this chapter shall apply to any conservation subdivision.
- B. Conservation subdivisions shall comply with the North East Township Subdivision and Land Development Ordinance.
- C. The conservation subdivision design option shall not relieve the applicant/developer from the obligation to comply with all applicable federal, state or local laws or regulations.
- D. Ownership: The development tract may be held in single ownership or in multiple ownerships. When a development tract is held in multiple ownerships, it shall be:
  - 1. Represented by a single application; and
  - 2. Presented and approved under a common plan. The entire tract shall be designed in accordance with this chapter and the North East Township Subdivision and Land Development Ordinance.
- E. Water Supply: Lots in a conservation subdivision development may be served by a public or community (off-site, community) water supply and distribution system with such volume and pressure to provide adequate service in accord with accepted engineering practice, this chapter,

and any other applicable governmental standards; or, may be served with individual wells located on-lot or on greenway lands. However, all multiple-family dwellings, and all dwellings on lots less than 20,000 square feet shall be served by a public or community water system.

- F. **Sewage Disposal:** Lots in a conservation subdivision development shall be subject to the following:
1. All lots shall be provided with adequate sewage disposal facilities consistent with the North East Township Sewage Facilities Plan and meeting the requirements of this chapter, the North East Township Subdivision and Land Development Ordinance and the County Health Department/PA DEP.
  2. In areas where a public sewage system is not available, all dwellings on lots less than one (1) acre shall be served by a community sewage disposal system or an individual system located either on lot or on greenway lands. All dwellings on lots of one (1) acre or more shall be served by a community sewage disposal system or an individual system located on the lot.
  3. Conservation subdivisions utilizing Option 2, Enhanced Density with Greater Conservation, shall be served by public sewer.

## 1206 Maximum Number of Lots

### 1206.01 Option 1, Neutral Density and Basic Conservation

The maximum number of lots permitted for Option 1, Neutral Density and Basic Conservation, shall be determined either by Formula (see Section 1206.04) or by a Conceptual Yield Plan (see Section 1206.05). The applicant shall have the choice of which method is used.

### 1206.02 Option 2, Enhanced Density with Greater Conservation

- A. For Option 2, Enhanced Density with Greater Conservation, a density bonus shall be added to the number of lots determined by formula (see Section 1206.04) or depicted by a Conceptual Yield Plan (see Section 1206.05) in order to determine the maximum number of lots. The applicant shall have the choice of which method is used.
- B. The maximum number of lots shall be calculated as follows. If the calculation results in a fractional number, the fraction shall be rounded down to the next whole number.

a.	Maximum number of lots determined by formula (see Section 1206.04) or depicted by a conceptual yield plan (see Section 1206.05)	_____ lots
b.	Multiply by density bonus factor (1.25)	x <u>1.25</u>
c.	Equals maximum number of lots (rounded down to next whole number)	= _____ lots

### 1206.03 Option 3, Large Lot Option

The maximum number of lots permitted for Option 3, Large Lot Option, shall equal the net tract area divided by 4 acres. If the calculation results in a fractional number, the fraction shall be rounded down to the next whole number.

**1206.04 Maximum Number of Lots by Formula**

- A. **Applicability:** This section shall be applicable only to Option 1, Neutral Density and Basic Conservation, and Option 2, Enhanced Density with Greater Conservation. The applicant shall have the choice of determining the maximum number of lots by formula or by providing a conceptual yield plan (See section 1206.05).
- B. Determination of the maximum number of lots, by formula, shall be based on the following calculations:
  - 1. **Determine Net tract area:** Net tract area shall equal the acreage within the legally described parcel excluding existing public or private road rights-of-way.
  - 2. **Determine Constrained Land:** Constrained land consists of the resources listed in the following table, multiplied by a protection factor and totaled. If a portion of the tract is underlain by more than one resource, that acreage shall be subject only to the resource with the most restrictive protection factor.

Constrained Lands				
	Resource	Area of Resource (acres)	Protection Factor	Constrained Land (acres)
a.	Existing or proposed overhead rights-of-way of utility lines.		x 1.0	=
b.	That portion of lands under conservation easement that are restricted from further development.		x 1.0	=
c.	100-year Floodplain		x 1.0	=
d.	Wetlands		x 0.95	=
e.	Steep Slopes (over 25%)		x 0.85	=
h.	<b>Adjustment for Constrained Land = Sum of a through e =</b>			

- 1. **Determine Allowance for Future Infrastructure:** An allowance for future infrastructure, such as new roads and stormwater management facilities that may be needed to support the proposed subdivision, shall be estimated at twenty-five (25%) of the net tract area.

a.	Net tract area	_____ acres
b.	Multiplied by 25%	x <u>0.25</u>
c.	Equals Allowance for Future Infrastructure	= _____ acres

- 2. **Determine the Adjusted Tract Area (ATA):** The adjusted tract area is the net tract area less the constrained land less the allowance for infrastructure.

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a.	Net tract area	_____ acres
b.	Less Constrained Land (from Section 1206.04 (B,2) above)	- _____ acres
c.	Less Allowance for Future Infrastructure (from Section 1206.04 (B,3) above)	- _____ acres
d.	Equals Adjusted Tract Area (in acres)	= _____ acres ATA
e.	Multiplied by 43,560	x <u>43,560</u>
f.	Equals Adjusted Tract Area (converted to square feet)	= _____ sq. ft. ATA

3. Determine Maximum Number of Lots:

The maximum number of lots equals the adjusted tract area divided by the minimum lot area required for a single-family residential dwelling within the underlying zoning district. If the calculation results in a fractional number, the fraction shall be rounded down to the next whole number.

a.	Adjusted Tract Area (from Section 1206.04 (B,4) above)	_____ ATA
b.	Divided by the minimum lot area for a single-family dwelling within the underlying zoning district (from Section 602)	÷ _____
c.	Equals maximum number of lots (rounded down to next whole number)	= _____ lots

**1206.05 Maximum Number of Lots by Conceptual Yield Plan**

- A. Applicability: This section shall be applicable only to Option 1, Neutral Density and Basic Conservation, and Option 2, Enhanced Density with Greater Conservation. The applicant shall have the choice of determining the maximum number of lots by formula (See section 1206.04) or by providing a conceptual yield plan.
- B. The maximum number of lots permitted shall equal the number of lots demonstrated by a conceptual yield plan, submitted by the applicant, and depicting the conventional development of the tract of land according to the conventional design standards of this chapter, the North East Township Subdivision and Land Development Ordinance, and any other applicable federal, state or local regulations.
- C. The conceptual yield plan shall meet the requirements of the North East Township Subdivision and Land Development Ordinance.
- D. The design of the conceptual yield plan must be capable of being implemented given the characteristics and features of the site and all applicable regulations.

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- E. Applicants are strongly encouraged to present the conceptual yield plan to the municipality as early as possible to obtain input regarding the calculation of the number of lots permitted in the conservation subdivision.
- F. The applicant shall have the burden of proof with regard to the maximum number of lots resulting from the design and engineering specifications shown on the conceptual yield plan.
- G. On sites not served by public sewer or a community sewage disposal system, the following conditions apply:
  - 1. The conceptual yield plan shall be based on the number of dwelling units that can be supported by individual soils-based sewage disposal methods. For purposes of meeting this standard, this shall exclude holding tanks, individual stream discharge systems and evapotranspiration systems.
  - 2. The applicant shall have the burden of proof that all lots meet the requirements for an individual soils-based sewage disposal system.
  - 3. The municipality, at its discretion, may select a 10% sample (or a sample of three lots, whichever is greater) of the lots considered marginal for on-lot sewage disposal. The applicant shall provide evidence that these lots meet the standards for an individual soils-based sewage disposal system. Should any of the lots in a sample fail to meet the standard for an individual soils-based sewage disposal system, those lots shall be deducted from the yield plan and a second 10% sample (or a sample of three lots, whichever is greater) shall be selected by the municipality and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual soils-based sewage disposal system.

## **1207 Lot and Yard Standards for Conservation Subdivisions**

### **1207.01 Lot and Yard Standards for Option 3, Large Lot Option**

- A. Lot and yard requirements for Option 3, Large Lot Option, shall be in accordance with the underlying zoning district. See Article 6 of this chapter.
- B. All lots shall be protected from further subdivision with a deed restriction, as follows:
  - 1. The deed restriction shall be in a form acceptable to the municipality.
  - 2. The municipality shall be a party to the deed restriction, and shall have the right to enforce the deed restriction.
  - 3. The deed restriction shall run with the chain of title and be recorded at the Erie County Recorder of Deeds.

**1207.02 Lot and Yard Standards for Option 1 and Option 2**

Lot and yard requirements for Option 1, Neutral Density and Basic Conservation, and Option 2, Enhanced Density with Greater Conservation, shall be in accordance with Article 6 of this chapter except as follows:

- A. The minimum lot area requirement shall be reduced according to the following schedule:

Zoning District	District Minimum Lot Area	Option 1 Minimum Lot Area	Option 2 Minimum Lot Area
A-1, Preservation	2 acres	20,000 square feet	N/A – Not Permitted
A-2, Agricultural	1 acre	20,000 square feet	N/A – Not Permitted
R-1, Residential			
With Public Sewer	20,000 square feet	5,000 square feet	N/A – Not Permitted
No Public Sewer	30,000 square feet	15,000 square feet	N/A – Not Permitted
R-2, Residential			
With Public Sewer	15,000 square feet	5,000 square feet	5,000 square feet
No Public Sewer	20,000 square feet	10,000 square feet	N/A – Not Permitted
MU, Mixed Use			
With Public Sewer	15,000 square feet	5,000 square feet	5,000 square feet
No Public Sewer	20,000 square feet	10,000 square feet	N/A – Not Permitted

- B. The minimum lot frontage shall be 50 feet. The governing body may waive this requirement where it is determined that a reduced frontage requirement will further the purpose and intent of this Article.
- C. Minimum front, side and rear yard setback requirements for a principal building shall be 50% of the required setbacks for the underlying zoning district (See Article 6), except as follows:
  - a. The governing body may authorize a further reduction in the minimum setback requirements where it is determined that reduced setback requirements will further the purpose and intent of this Article.
  - b. The minimum front, side and rear yard setback requirements along the development tract boundaries shall be in accordance with the underlying zoning district (See Article 6).
- D. Minimum side and rear yard setback requirements for an accessory building or structure shall be half of the required setback for a principal building or half the height of the accessory building, whichever is greater. However, in no case shall the setback be less than 5 feet from the property line.
- E. Maximum Building Coverage shall be in accordance with the following table:

Lot Area	Maximum Building Coverage
Less than 10,000 square feet	50%
10,000 to 20,000 square feet	35%
Greater than 20,000 square feet	Subject to the requirements of the underlying zoning district (See Article 6, Section 606).

### 1208 Design Standards for Options 1 and 2

Conservation subdivisions utilizing Option 1, Neutral Density and Basic Conservation and/or Option 2, Enhanced Density with Greater Conservation shall be subject to the following design standards. However, the governing body, at its sole discretion, may authorize a variation of these standards where the applicant has demonstrated to the satisfaction of the municipality that the purposes of this Article are better served through such variation.

- A. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- B. Proposed development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
- C. Views of house lots from exterior roads shall be minimized by the use of changes in topography, existing vegetation, new landscaping or other design elements.
- D. No dwelling units within the conservation subdivision development shall have direct driveway access to existing municipal or state roads. All driveways shall access internal street systems as designed for the project.
- E. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- F. A safe and convenient pedestrian circulation system should be provided to link residences with parking areas, recreation facilities, greenway land and adjacent land uses where appropriate.
- G. Developers are encouraged to use "soft" (non-structural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.
- H. All lots shall be protected from further subdivision with a deed restriction, as follows:
  - 1. The deed restriction shall be in a form acceptable to the municipality.
  - 2. The municipality shall be a party to the deed restriction, and shall have the right to enforce the deed restriction.
  - 3. The deed restriction shall run with the chain of title and be recorded at the Erie County Recorder of Deeds.

### 1209 Greenway Land: Minimum Requirements

The minimum Greenway land requirement shall be as set forth in the following table:

Development Option	Minimum Greenway Land
Option 1, Neutral Density and Basic Conservation	50% of net tract area
Option 2, Enhanced Density with Greater Conservation	60% of net tract area

Option 3, Large Lot Option	Greenway land is permitted, but not required.
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### 1210 Greenway Land: Permitted Uses

Permitted uses of greenway land that comprises a part of a conservation subdivision approved in accordance with this Article shall be as follows:

- A. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
- B. Agricultural and horticultural uses, including raising crops or livestock, and related accessory buildings. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
- C. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted, but shall not consume more than 50% of the minimum required greenway land.
- D. Forestry in keeping with established best management practices for selective harvesting and sustained yield forestry.
- E. Neighborhood greenway land uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.
- F. Active non-commercial recreation areas, such as playing fields, courts, and playgrounds. Such recreational uses shall meet the following standards:
  - 1. Such areas shall not consume more than 50% of the minimum required greenway land or five acres, whichever is less. The 5-acre limit may be increased to 10 acres on development parcels 200 acres or larger.
  - 2. Such areas shall not be located within 100 feet of the tract boundary or a dwelling unit within the development parcel.
- G. Parking areas to serve permitted uses of the greenway land area: Such lots may be paved with gravel and shall be unlighted, shall be properly drained and shall provide safe ingress and egress. The number of parking spaces shall be limited to ten (10) or fewer spaces unless a higher number is authorized by the governing body.
- H. Golf courses, including their parking areas and associated structures, may comprise up to half of the minimum required Greenway land, but shall not include driving ranges or miniature golf.
- I. Water supply systems, sewage disposal systems, stormwater management systems and associated easements, subject to the following limitations:
  - 1. Water Supply Systems: Land used for ground-level water supply structures and associated parking exceeding 5,000 square feet shall not count toward the minimum greenway land requirement.
  - 2. Sewage Disposal Systems:
    - i. Sewage treatment lagoons, structures, structure access areas and parking lots shall not count toward the greenway land requirement.
    - ii. Soil absorption areas shall be appropriate for active or passive recreation.

- iii. Absorption fields serving individual dwelling units may be located in the greenway land, but individual treatment tanks shall be located within the lots they serve.
- J. Easements or rights-of-way for drainage, access, utilities or essential services: Overhead power lines and street rights-of-way may traverse greenway lands, but shall not count toward the minimum greenway land requirement.
- K. Specifically prohibited are:
  - 1. Motorized off-road vehicles, shooting ranges and other uses similar in character and potential impact as determined by the governing body. This provision shall not prohibit vehicles used for maintenance purposes.
  - 2. Surface mining and quarrying.

### **1211 Greenway Land: Design Standards**

Greenway land that comprises a part of a conservation subdivision approved in accordance with this Article shall be subject to the following standards:

- A. Areas designated as greenway land shall be consistent with the goals and strategies of the North East Area Comprehensive Plan. The location and layout of the greenway land shall be configured so as to serve neighborhood residents adequately and conveniently and to promote the conservation of primary and secondary conservation areas to the greatest extent practicable.
- B. Greenway land shall be identified and laid out according to the Four-Step Design Process described in the North East Township Subdivision and Land Development Ordinance, beginning with the identification of primary and secondary conservation areas.
- C. No part of any residential lot shall encroach upon greenway land with the exception of conservancy lots, as permitted in Section 1214 (D).
- D. A minimum of twenty percent (20%) of the greenway land shall be available for the common use of subdivision residents.
- E. In accordance with Section 1212, primary conservation areas shall be included in the greenway land, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this Article. Secondary conservation areas should be included within the greenway land to the maximum extent feasible.
- F. Greenway land areas shall, to the greatest extent possible, be in large, continuous, undivided parcels coherently configured to relate to neighborhood areas of the conservation subdivision development.
- G. In cases where smaller greenway land parcels are necessary, they shall generally not be less than three (3) acres in size and shall generally not have a length-to-width ratio of more than 4:1, or be less than seventy-five (75) feet in width, except as may be required for neighborhood design, required buffers or trails linking greenway land areas.
- H. In cases where smaller greenway land parcels are necessary, they shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision.
- I. The greenway land shall be undivided by public roads, except where necessary for proper traffic circulation.

- J. The greenway land shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe, convenient access to the greenway land. A safe and convenient pedestrian circulation system should be provided to connect neighborhood areas with greenway land areas within the conservation subdivision.
- K. In cases where agricultural land (crop land and/or pasture) is a significant feature of the site, neighborhoods shall be designed to minimize conflicts with agricultural practices and any designated Agricultural Security Areas. Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
- L. Whenever possible, greenway land within the conservation subdivision should connect to existing or potential conservation areas on adjoining parcels. Where appropriate, provisions should be made for pedestrian pathways for general public use to create linked systems within the municipality.
- M. Where conservation subdivision development is planned to occur in two or more development phases, a proportionate amount of designated restricted greenway land shall be permanently recorded with each phase.

### **1212 Greenway Land: Primary and Secondary Conservation Areas**

- A. Primary Conservation Areas: The following are considered primary conservation areas and shall be included in the greenway land, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this Article:
  - 1. Stream corridors, floodplains, wetlands, ponds and reservoirs and other lowland areas, including adjacent buffer areas which may be required to insure their protection. Buffer zones should generally be a width of at least 100 feet along all perennial and intermittent streams.
  - 2. Significant natural areas of species listed as endangered, threatened or of special concern, such as those listed in the Erie County Natural Heritage Inventory.
  - 3. Moderate to steep slopes (slopes greater than 15 percent), particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
  - 4. Bluff recession hazard areas located along the Lake Erie shoreline.
  - 5. Archaeological sites, cemeteries and burial grounds.
- B. Secondary Conservation Areas: The following are considered secondary conservation areas and should be included within the greenway land to the maximum extent feasible:
  - 1. Prime agricultural lands of at least five contiguous acres. Prime agricultural lands are identified by the Erie County Soil Survey.
  - 2. Existing healthy, woodlands of at least one contiguous acre.
  - 3. Other significant natural features and scenic viewsheds such as fence rows, ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads.
  - 4. Significant historic and cultural features such as historic buildings, structures, plaques, markers, or monuments.

5. Existing trails that connect the tract to neighboring areas.

### **1213 Greenway Land: Permanent Protection**

Except to provide for permitted greenway land uses, designated greenway land shall be restricted from further subdivision and land development by a deed restriction or conservation easement, in a form acceptable to the municipality and duly recorded in the office of the Erie County Recorder of Deeds.

- A. Conservation Easements: In cases where conservation easements are used to protect greenway lands from further subdivision and development the following shall be required:

1. Easements shall be granted to either the municipality or a private conservation organization meeting the requirements in Section 1214 (B). The grantee shall have the rights of reasonable entry and enforcement.
2. The property made subject to the conservation easement shall be described by metes and bounds. An exhibit that contains the subdivision plan and illustrates the designated conservation easement area shall be included.
3. Grantors shall declare that the terms of the easement shall run with the land and bind the property in perpetuity for the benefit of the grantee.
4. The uses of property subject to the conservation easement shall be limited by the permitted uses defined by Section 1210 of this chapter.
5. Subdivision of the conservation easement property into additional building lots shall be prohibited.
6. The terms and restrictions of the conservation easement shall be approved by the governing body which shall be guided by the objectives set forth in the North East Area Comprehensive Plan, as well as the management plan for the property.
7. Provisions pertaining to remedies, liability, indemnification and other relevant subjects, shall be approved by the grantor, the governing body and the authorized representative of the grantee before final approval of the development plan by the governing body.
8. The conservation easement shall be recorded in the office of the Erie County Recorder of Deeds.

- B. Deed Restrictions:

1. Deed restrictions may be used in the place of conservation easements only under the following circumstances and in accordance with the following standards:
  - i. When greenway land totals less than 5 acres, a deed restriction may be used.
  - ii. If no entity is available or willing to hold a conservation easement on required greenway land, a deed restriction may be used.
2. In cases where deed restrictions are used to protect greenway lands from further subdivision and development the following shall be required:
  - i. The municipality shall be party to the deed restriction. The deed restriction shall be used only if approved by the municipality. If the municipality does not agree to be party to the restriction, no deed restriction shall be used.
  - ii. Restrictions, meeting municipal specifications, shall be placed in the deed for each lot with greenway land. The deed restriction shall ensure the permanent

protection and continuance of the greenway land and shall define permitted uses.

- iii. It shall be clearly stated in the individual deeds that maintenance responsibility for the greenway land lies with the property owner.

### **1214 Greenway Land: Ownership Options and Standards**

The following methods may be used, either individually or in combination, to own common facilities and greenway land. Greenway land shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no decrease in the total greenway land. Ownership methods shall conform to the following:

- A. Community Association: Greenway land and common facilities may be held in common ownership for the use of all residents of the subdivision or land development and shall thereby be controlled and maintained by a community association. Community association documents shall be in compliance with the Pennsylvania Uniform Planned Community Act (as to a homeowners' association document) or the Pennsylvania Uniform Condominium Act (as to a condominium association document), as the case may be. The community association document shall include, but not be limited to, the following:
  1. A description of the common greenway land to be owned by the community association. This description shall include a plan of the proposal highlighting the precise location of all aspects of the common greenway land;
  2. Statements setting forth the powers, duties, and responsibilities of the community association, including the services to be provided;
  3. A declaration of covenants, conditions, and restrictions (declaration), giving perpetual easement to the lands and facilities owned by the community association. The declaration shall be a legal document providing for automatic membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the community association, including voting, elections, and meetings. The declaration shall give power to the community association to own and maintain the common greenway land and to make and enforce rules;
  4. Statements prescribing the process by which community association decisions are reached and setting forth the authority to act;
  5. Statements requiring each owner within the subdivision or land development to become a member of the community association;
  6. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement;
  7. Requirements for all owners to provide a pro rata share of the cost of the operations of the community association;
  8. A process of collection and enforcement to obtain funds from owners who fail to comply;
  9. A process for transition of control of the community association from the developer to the unit owners;

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10. Statements describing how the common greenway land of the community association will be insured, including limit of liability;
  11. Provisions for the dissolution of the community association;
  12. Agreements for the maintenance of stormwater management facilities; and
  13. Agreements for the maintenance and operation of water supply and wastewater treatment facilities.
- B. Private Conservation Organization: With permission of the municipality, an owner may transfer either fee simple title of the greenway land or easements on the greenway land to a private non-profit conservation organization provided that:
1. The conservation organization is acceptable to the municipality and is a bona fide conservation organization intended to exist indefinitely;
  2. The conveyance contains appropriate provisions for a proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;
  3. The greenway land is permanently restricted from future development through a conservation easement and the conservation organization and the municipality are given the ability to enforce these restrictions; and
  4. A maintenance agreement acceptable to the municipality is established between the owner and the organization.
- C. Offer of Dedication to Municipality:
1. Fee Simple Dedication to the Municipality: The municipality may, but shall not be required to, accept dedication of any portion of the greenway land, provided that:
    - i. There is no cost of acquisition to the municipality; and
    - ii. The municipality agrees to and has access to maintain such greenway land.
  2. Dedication of Easements to the Municipality: The municipality may, but shall not be required to, accept dedication of easements for public use of any portion of the greenway land. In such cases, the facility remains in the ownership of the community association, or private conservation organization, while the municipality holds the easements. In addition, the following regulations shall apply:
    - i. There shall be no cost of acquisition to the municipality;
    - ii. Any such easements for public use shall be accessible to the residents of the municipality; and
    - iii. A satisfactory maintenance agreement shall be reached between the owner and the municipality.
- D. Private Ownership: Up to 80 percent (80%) of the required Greenway land may be located within one or more privately owned conservancy lots of at least 10 acres provided:
1. The greenway land is permanently restricted from future subdivision and development through a deed restriction or conservation easement, except for those uses listed in Section 1210. The deed restriction or conservation easement shall comply with the standards set forth in Section 1213 of this chapter.
  2. The deed restriction or conservation easement provides the municipality the right, but not the obligation, to enforce these restrictions.

**1215 Greenway Land: Management and Maintenance**

- A. Unless otherwise agreed to by the governing body, the cost and responsibility of maintaining greenway land shall be borne by the property owner, community association, or conservation organization.
- B. The applicant shall, at the time of preliminary plan submission, provide a plan for management of greenway land in accordance with the North East Township Subdivision and Land Development Ordinance.
- C. Failure to adequately maintain the greenway land in reasonable order and condition in accordance with the development plan constitutes a violation of this chapter.

## Article 13 Solar Energy Systems

### 1301 Applicability

- A. This ordinance applies to solar energy systems to be installed and constructed after the effective date of this ordinance, and all applications for solar energy systems on existing structures or property.
- B. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
- C. Any upgrades, modifications or changes that materially alter the size or placement of an existing solar energy system shall comply with the provisions of this ordinance.

### 1302 Purpose

The purpose of this ordinance is to promote the use of solar energy and to provide for the land planning, installation and construction of solar energy systems in North East Township, subject to reasonable conditions that will protect the public health, safety and welfare.

### 1303 Definitions Specific to Solar Energy Systems

The following words, terms and phrases, when used in this ordinance, unless the context indicates otherwise, shall have the following meanings ascribed to them:

**Accessory Solar Energy System (ASES):** An area of land or other area used for a solar energy 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 (1) or more free-standing ground, or roof or wall mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

**Glare:** The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Ground Mounted Solar Energy System:** A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure.

**Non-Participating Landowner:** Any landowner except those on whose property all or a portion of a solar energy system is located pursuant to an agreement with the solar energy system owner or operator.

**Principal Solar Energy System (PSES):** An area of land or other area used for a solar energy 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 (1) or more free-standing ground, or roof or wall 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.

**Solar Energy:** Radiant energy (direct, diffuse and/or reflective) received from the sun.

**Commented [JMM65]:** Current NE Twp zoning regulates solar energy systems as a "renewable energy source". Current Section 350-27 allows as conditional use in all districts. Twp ordinance does not appear to address accessory solar systems separately from principal systems.

NE Twp draft ordinance to support a conditional use application for a community solar system on Crawford Road is parcel and project specific.

Community solar is not yet legal in PA (as of 7/10/23), although HB 1555 of 2021 and SB 472 of 2021 will permit them if/when passed into state law. These bills will provide some decommissioning regulations, but are otherwise limited regarding land use regulations/protections.

This draft regulates principal and accessory solar systems, and by an extension of that, will also apply to community solar. Community solar will typically be a principal system.

**Solar Energy System:** A solar photovoltaic cell, module/panels, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

1. **Solar Array:** A grouping of multiple solar modules with the purpose of harvesting solar energy.
2. **Solar Cell:** The smallest basic solar electric device which generates electricity when exposed to light.
3. **Solar Module:** A grouping of solar cells with the purpose of harvesting solar energy.
4. **Solar Panel:** 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 and/or for electricity.

**Solar Energy System Owner (PSES Owner):** The individual, group, entity or entities having an equity interest in the solar energy system, including their respective successors and assigns.

**Solar Project Area:** The total area of land including the solar energy system, the space between solar arrays, stormwater management area, access drives, fencing and internal access roads. The solar project area does not include any area set aside exclusively for agricultural uses and designed to be adequate for the maneuverability of typical farm equipment.

**Solar Related Equipment:** Items including 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.

### 1304 Accessory Solar Energy Systems (ASES)

Accessory Solar Energy Systems (ASES) shall be subject to the following criteria:

- A. Regulations Applicable to All Accessory Solar Energy Systems:
  1. Accessory solar energy systems shall be a permitted use in all zoning districts.
  2. Exemptions
    - a. ASES with an aggregate collection and/or focusing area of 100 square feet or less are exempt from this chapter.
    - b. ASES constructed prior to the effective date of this chapter shall not be required to meet the terms and conditions of this chapter. Any physical modification to an existing ASES whether or not existing prior to the effective date of this chapter that materially alters the ASES shall require approval under this chapter. Routine maintenance or like-kind replacements do not require a permit.
  3. The ASES shall be located, designed, and installed as per the manufacturer's specifications, as well as all zoning, building code, utility requirements, and in accordance with the National Electric Code (latest version adopted in Pennsylvania).
  4. Upon completion of installation, the ASES shall be maintained in good working order in accordance with the standards of the applicable codes under which the ASES was constructed.

**Commented [JMM66]:** Current Twp ordinance does not appear to address accessory solar systems separately from principal systems.

**Commented [JMM67]:** This is optional, and the square footage can be adjusted, if desired.

Size of a residential solar system will vary depending on number of kW and the efficiency of the solar panels.

Systems ranging from 5 kW to 15 kW will range in size from an estimated 224 square feet to 918 square feet per energysage.com (1/14/20).

Smaller systems can be used for things like heated swimming pools and hot tubs.

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Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement action by the municipality.

5. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
6. The owner of an ASES shall provide the Municipality written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.
7. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.
8. Glare
  - a. All ASES shall be situated to prevent concentrated glare onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.
  - b. The applicant and/or operator has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
9. Decommissioning
  - a. Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.
  - b. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.
10. Permit Requirements
  - a. Zoning /building permit applications shall document compliance with this chapter and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.
  - b. Prior to the issuance of a zoning or land use permit, ASES applicants shall acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself;
    - i. The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or
    - ii. The right to prohibit the development on or growth of any trees or vegetation on such property.
  - c. The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this chapter.
  - d. The ASES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Failure of the property owner

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to maintain the ASES in compliance with the foregoing provisions is grounds for appropriate enforcement actions by the municipality.

- B. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:
1. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
  2. Notwithstanding the height limitations within the underlying Zoning District:
    - a. For ASES installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
    - b. For a roof-mounted system installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached.
  3. Wall mounted ASES that are mounted on a principal building or structure shall comply with the setbacks for principal structures in the underlying zoning district. Wall mounted ASES that are mounted on an accessory building or structure shall comply with the setbacks for accessory structures in the underlying zoning district.
  4. Solar panels shall not extend beyond any portion of the roof edge.
  5. Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
  6. The owner shall provide evidence certified by an appropriately licensed professional that the roof or wall-mounted system complies with the Uniform Construction Code and that the roof or wall is capable of holding the load of the ASES.
- C. Ground Mounted Accessory Solar Energy Systems:
1. Ground mounted ASES with a solar project area greater than 1 acre shall comply with the requirements of Section 1305, Principle Solar Energy Systems.
  2. Setbacks:
    - a. A ground mounted ASES shall not be located in the required front yard setback.
    - b. The minimum yard setbacks from side and rear property lines shall be shall comply with the setbacks for accessory structures in the underlying zoning district.
  3. Ground mounted ASES are prohibited in front yards, between the principal building and the public street, unless authorized by the Zoning Hearing Board. The Zoning Hearing Board may authorize the installation of a ground mounted ASES in front of the principal building, outside the required front yard, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.
  4. Height
    - a. Within Residential Districts freestanding ground mounted ASES shall not exceed 15 feet in height above the ground elevation surrounding the system.
    - b. Within Non-Residential Districts ground mounted ASES shall not exceed 20 feet in height above the ground elevation surrounding the system.
  5. Stormwater Management:
    - a. The applicant shall demonstrate compliance with the municipal stormwater management ordinance.

**Commented [JMM68]:** This requirement could be revised or exempted in specific districts, such as industrial, if desired.

**Commented [JMM69]:** Or Board of Supervisors, depending on Township's preference.

**Commented [JMM70]:** This draft ordinance defines residential districts as R-1 and R-2. By default, all other districts, including MU, are defined as non-residential. If Twp desires, we can use specific district names, rather than generic categories.

**Commented [JMM71]:** Typical panel height is 15-20 feet. PSATS 2020 model ordinance limits height of ground-mounted solar panels to 25 feet. Municipalities may want to limit height to the maximum accessory structure height in the underlying zoning district if it is lower.

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- b. The area beneath the ground mounted solar arrays is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to stormwater management requirements and the impervious surfaces limitations for the underlying zoning district.
- 6. Coverage: The total surface area of the solar arrays of ground mounted ASES on the property shall not exceed more than 15 percent (15%) of the lot area.
- 7. Screening: Ground mounted ASES 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 requirements of this chapter may be used.
- 8. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.
- 9. Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

**Commented [JMM72]:** This requirement is optional. If used, the percentage can be tailored, as desired by the Twp.

Another option would be to apply only within select zoning districts if that best suits the needs of the municipality.

### 1305 Principal Solar Energy Systems (PSES)

Principal Solar Energy Systems (PSES) shall be subject to the following criteria:

- A. Regulations Applicable to All Principal Solar Energy Systems (PSES):
  - 1. Principal Solar Energy Systems (PSES) shall be permitted as a conditional use only within the Renewable Energy District, as shown on the North East Township Renewable Energy District Map.
  - 2. Exemption: PSES constructed prior to the effective date of this chapter shall not be required to meet the terms and conditions of this chapter. Any physical modification to an existing PSES whether or not existing prior to the effective date of this chapter that materially alters the PSES shall require approval under this chapter. Routine maintenance or like-kind replacements do not require a permit.
  - 3. 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 and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
  - 4. All on-site utility, transmission and plumbing lines shall be placed underground to the extent feasible.

**Commented [JMM73]:** Community Solar Systems, if made legal in PA, will typically be a principal solar energy system as defined by this draft.

**Commented [JMM74]:** 11/20/23 Per PC, the existing wind energy district map will be replaced with a renewable energy district map that will regulate both wind and solar.

Contact Mike Baker at County Planning for any desired revisions to the draft map. Mike can also provide a final map with the adoption date shown.

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5. Upon completion of installation, the PSES shall be maintained in good working order in accordance with the standards of the applicable codes under which the PSES was constructed. Failure of the property owner to maintain the PSES in good working order is grounds for appropriate enforcement action by the municipality.
6. The owner of a PSES shall provide the Municipality written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system. The written confirmation shall include a statement of capacity and approval of the proposed connection.
7. 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 they comply with the prevailing sign regulations.
8. Glare
  - a. All PSES shall be situated to prevent concentrated glare onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.
  - b. The applicant and/or operator 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.
9. A noise management plan that addresses noise produced during construction and during the facilities operation, to be approved by the municipality, shall be included with the application. The plan, at a minimum, shall separately address noise during construction and facility operations and include mitigation, an assessment of the noise that will emanate at the perimeter fence, and the contact information for the individual(s) who is responsible for implementation and compliance both during construction and operations. The volume of sound inherently and recurrently generated shall be controlled so as not to cause a nuisance to adjacent uses. During operation of the PSES, audible sound shall follow best management practices regarding sound, as measured at the property line on a non-participating landowner's property.
10. Use of Public Roads
  - a. The applicant shall identify all state and local public roads to be used within the municipality to transport equipment and parts for construction, operation or maintenance of the solar energy system.
  - b. The municipal engineer, or a qualified third party engineer hired by the municipality and paid for by the applicant shall document road conditions prior to construction. The engineer shall document road conditions again within thirty (30) days after construction is complete or as weather permits.
  - c. The municipality may require that the developer bond the road in compliance with state and local regulations.
  - d. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
11. Decommissioning
  - a. The PSES owner is required to notify the municipality immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or

**Commented [JMM75]:** A noise management plan requirement is optional.

The setback and buffering requirements recommended by this draft should help to mitigate noise issues. The noise management plan can be added if municipality desires an additional level of protection.

NE Twp draft ordinance for the community solar conditional use application set a maximum noise level of 45 dBA at any non-participating property line. This is low in comparison to some model ordinances. For example, Montour County limits noise to 60 dBA during daytime hours and 55 dBA during nighttime hours.

A maximum noise level can be included in the ordinance, if desired by the municipality.

**Commented [JMM76]:** This draft requires this for all PSES. However, if desired, the Twp can choose to apply this option only in cases where the PSES exceeds a specified solar project area in terms of acreage. By doing this, the Twp could exempt smaller PSES from this requirement.

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abandoned if no electricity is generated by such system for a period of twelve (12) continuous months. The PSES is not presumed to be discontinued or abandoned if the PSES owner has temporarily ceased its operation, but is in the process of transferring ownership and management of the PSES.

- b. If it is determined that the PSES has permanently ceased its operation, or has been abandoned, the PSES owner shall then have eighteen (18) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property.
- c. To the extent possible, the materials shall be re-sold or salvaged. Materials that cannot be re-sold or salvaged shall be disposed of at a facility authorized to dispose of such materials by federal or state law.
- d. Any soil exposed during the removal shall be stabilized in accordance with applicable erosion and sediment control standards.
- e. Any access drive paved aprons from public roads may remain for future use unless directed otherwise by the landowner.
- f. The PSES site area shall be restored to its pre-existing condition, suitable for its prior use, except the landowner may authorize, in writing, any buffer landscaping or access roads installed to accommodate the PSES to remain.
- g. Any necessary permits, such as Erosion and Sedimentation and NPDES permits, shall be obtained prior to decommissioning activities.
- h. At the time of issuance of approval for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to the municipality and in favor of the municipality, to secure its obligations under this Section.
  - i. The PSES developer shall, at the time of the zoning application, provide the municipality with an estimate of the cost of performing the decommissioning activities required herein. The solar project owner shall provide financial security of 110% of the estimated cost of decommissioning. The estimate may include an estimated salvage and resale value, discounted by a factor of 10%. The decommissioning cost estimate formula shall be: gross cost of decommissioning activities minus 90% credit of salvage and resale value equals the decommissioning cost estimate.
  - ii. On every 5th anniversary of the date of providing the decommissioning financial security, the PSES owner shall provide an updated decommission cost estimate, utilizing the formula set forth above with adjustments for inflation and cost and value changes. If the decommissioning security amount increases, the PSES owner shall remit the increased financial security to the municipality within 30 days of the approval of the updated decommissioning security estimate by the municipality. If the decommissioning security amount decreases by greater than 10%, the municipal owner shall release

**Commented [JMM77]:** Many models allow only 12 months, but some allow 18 months. As of August 3, 2023, PA SB 550 of 2023 has not been enacted into law. However, it would require the decommissioning of community solar systems within 18 months.

**Commented [JMM78]:** Some model ordinances allow 18 months for decommissioning, rather than 12 months.

**Commented [JMM79]:** Zoning or SALDO application, if these regulations are added to a SALDO.

**Commented [JMM80]:** Twp's draft community solar conditional use ordinance requires 125% + 2% annual escalator. Most model ordinances use 110%. Reviews every 5 years appear to be standard requirements.

Twp's draft ordinance specifically states that the decommissioning amount shall not be reduced by salvage value.

As of July 2023, PA HB1555 of 2021 and SB 472 of 2021 have not yet been enacted into law. However, both state that funding mechanisms shall take into consideration salvage value.

from security any amounts held in excess of 110% of the updated decommission cost estimate.

- iii. Decommissioning security estimates shall be subject to review and approval by the municipality, and the PSES developer/owner shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review.
- iv. The decommissioning security may be in the form of cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow amount from a federal or Commonwealth chartered lending institution in the amount of 110% of the total proposed decommission cost estimate and in a form satisfactory to the municipality and their solicitor.
- v. Prior to final approval of any plans for a PSES, the PSES developer shall enter into a decommissioning agreement with the municipality outlining the responsibility of parties under this agreement as to the decommissioning of the PSES.

12. Plan Requirements

- a. The PSES shall be considered a land development and subject to the requirements of the North East Township Subdivision and Land Development Ordinance, except as follows:
  - i. Ground mounted PSES do not require submission of a land development plan if the solar project area is less than 1 acre.
  - ii. Roof mounted PSES do not require submission of a land development plan.
- b. Additional Plan Requirements: The land development plan, in addition to the other requirements of the North East Township Subdivision and Land Development Ordinance, shall contain the following:
  - i. A narrative describing the proposed PSES, including an overview of the project; the project location; the approximate generating capacity of the PSES; the approximate number, representative types and height or range of heights of the panels or other solar related equipment to be constructed or installed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
  - ii. An affidavit or similar evidence of agreement between the landowner(s) of the real property on which the PSES is to be located and the PSES owner, demonstrating that the PSES owner has the permission of the landowner(s) to apply for necessary permits or approvals for construction and operation of the PSES.
  - iii. Identification of the property, properties or portions thereof on which the proposed PSES will be located, and the properties adjacent to where the PSES will be located.
  - iv. A site plan showing the planned location of solar related equipment, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the solar energy system to the substation(s), ancillary

**Commented [JMM81]:** This is optional. If desired, Twp may choose to exempt smaller PSES from the LDP requirement. Erie County SALDO amendment proposes exemption if less than 1 acre. PSATS 2010 model ordinance exempted 2 acres or less. Cumberland County model ordinance recommends 5,000 square feet.

The size can be adjusted, as desired by the municipality. Or if municipality prefers, a LDP can be required for all PSES.

**Commented [JMM82]:** Exempting roof mounted PSES from the LDP requirement is optional.

**Commented [JMM83]:** Municipality may want to consider adding these requirements directly to its SALDO rather than including them in the zoning. We'll consider that option when we work on the new SALDO update. In that case, the zoning would just require a LDP submittal under the SALDO regulations, and identify any desired exemptions to the LDP submittal requirement

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equipment, buildings, and structures, including associated distribution and/or transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.

- v. The PSES owner shall provide written confirmation that the public utility company to which the PSES will be connected has been informed of the PSES owner's intent to install a grid connected system, and has approved such connection.
- vi. The PSES owner shall provide the name and phone number of a person responsible for the public to contact with inquiries and complaints related to the PSES. The PSES owner shall make reasonable efforts to respond to the public's inquiries and complaints.
- vii. An affidavit by the PSES owner shall be included on the land development plan, acknowledging that approval of the land development plan shall not and does not create in the property owner(s), its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
- viii. Documents related to decommissioning, including a decommissioning agreement with the municipality, a schedule for the decommissioning, and financing security.
- ix. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the municipality to ensure compliance with this chapter.

13. Permit Requirements

- a. Zoning /building permit applications shall document compliance with this chapter and shall be accompanied by drawings showing the location of the PSES on the building or property, including property lines. Permits must be kept on the premises where the PSES is constructed.
- b. Unless specifically exempted by this Chapter, the PSES applicant shall submit an approved land development plan that demonstrates compliance with the North East Township Subdivision and Land Development Ordinance. Refer to Section 1305 (A, 11, a) Plan Requirements for exemptions.
- c. The PSES applicant shall submit an approved stormwater management plan that demonstrates compliance with the North East Township Stormwater Management Ordinance.
- d. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.
- e. Participating Landowner Agreement: The Permit application shall include an affidavit or similar evidence of agreement between the landowner(s) of the real property on which the PSES is to be located and the PSES owner, demonstrating that the PSES

**Commented [JMM84]:** This is a repetition of 11 (b, ii) above. It remains here since it may be needed prior to LDP completion & submittal, or in case the project is exempted based on 11 (b) above.

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owner has permission of the landowner(s) to apply for necessary permits or approvals for construction and operation of the PSES.

- f. Prior to the issuance of a zoning or land use permit, PSES applicants shall acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself;
  - i. The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or
  - ii. The right to prohibit the development on or growth of any trees or vegetation on such property.

This acknowledgement shall be submitted to the municipality and placed on any required subdivision and/or land development plans.

- g. Routine maintenance or like-kind replacements do not require a permit.
  - h. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.
- B. Roof Mounted and Wall Mounted Principal Solar Energy Systems:
- 1. PSES mounted on roofs or walls of any building shall be subject to the maximum height regulations of the underlying zoning district.
  - 2. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and that the roof or wall is capable of holding the load imposed on the structure. Applications for roof mounted PSES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the PSES.
- C. Ground Mounted Principal Solar Energy Systems:
- 1. Minimum Lot Size: The PSES shall meet the minimum lot size requirements of the underlying zoning district.
  - 2. Setbacks:
    - a. PSES shall comply with the setbacks of the underlying zoning district for principal structures, unless specified otherwise.
    - b. PSES shall be located a minimum of 20 feet from adjacent residential districts or structures.
    - c. Required fences shall be considered principal structures for purposes of setbacks.
    - d. No side or rear setback shall be required where a PSES spans across lot lines, provided each landowner has signed a written waiver of the lot line setback.
    - e. Noise generating equipment, including but not limited to electricity storage equipment, inverters and transformers shall be located a minimum of 100 feet from all road rights-of-way and property lines of a non-participating landowner's property;

**Commented [JMM85]:** This is a repetition of 11 (b, vii) above. It remains here in case the project is exempted based on 11 (b) above.

**Commented [JMM86]:** Intent is to allow PSES to be installed continuously and make the most efficient use of the project area.

**Commented [JMM87]:** Per Penn State Municipal Officials Guide, Section 3, page 4, any noise for equipment on-site typically fades to background levels 50-150 feet from the site.

A best practice is to locate this equipment near the middle of the array to the extent possible. This draft proposes setbacks as an easier to define/enforce alternative.

These proposed setbacks as well as associated buffering requirements are intended to help mitigate any noise from the solar energy system.

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and a minimum of 150 feet from any occupied building located on a non-participating landowner's property. Property owners of non-participating properties may waive these setback requirement by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes. However, in no case shall setbacks from the non-participating property lines be less than the required setbacks for a principal structure within the underlying zoning district.

3. Height: Ground mounted solar related equipment shall not exceed 20 feet in height above the ground elevation surrounding the systems, except that there shall be no maximum height restrictions for structures that support the electric conveyance lines which connect the solar energy system to the high-voltage electric interconnection grid.
4. Solar Related Equipment shall not be located in or on the following:
  - a. Floodways, as identified in the FEMA FIRM mapping.
  - b. Regulated natural and man-made drainage corridors, extending twenty-five (25) feet from the centerline of any such drainage feature, unless the Board of Supervisors at time of plan approval determines a lesser setback would create less impacts to the overall project.
  - c. Wetlands.
  - d. Riparian buffers extending twenty-five (25) feet from any wetland or body of water, unless the Board of Supervisors at the time of plan approval determines a lesser setback would create less impacts to the overall project.
  - e. Slopes in excess of fifteen percent (15%), unless the Board of Supervisors at the time of plan approval determines location in an area in excess of 15% would create less impacts to the overall project.
  - f. Legal easements and rights-of-way.
5. Stormwater Management:
  - a. Stormwater runoff from a ground mounted PSES shall be managed in accordance with the requirements of the North East Township Stormwater Management Ordinance.
  - b. Where Solar Panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a Disconnected Impervious Area (DIA), and therefore, will have no increase from the pre-development to post-development runoff coefficient (pervious surface). The horizontal area of the panel can only be considered a DIA if the following conditions apply:
    - i. Where natural vegetative cover is preserved and/or restored utilizing low impact protection techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Management Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and re-vegetating and re-foresting disturbed areas using native species.
    - ii. Where the vegetative cover has a minimum uniform 70% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.

**Commented [JMM88]:** Typical panel height is 15-20 feet. Other equipment such as substations may be greater than 20 feet in height. PSATS 2020 model ordinance limits height of ground-mounted solar panels to 25 feet. Some ordinances limit height to the maximum permitted height of principal structures in the underlying zoning district.

If agrivoltaics (co-location of agriculture and solar) is permitted, the municipality should consider the height needed to allow for agricultural use underneath the solar panels.

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1. For panels located on slopes of 0 to 15% a minimum 4" height of vegetative cover shall be maintained.
2. Panels located on slopes greater than 15% cannot be considered a DIA.
3. Vegetated areas shall not be subject to chemical fertilization or herbicide/pesticide application, except for those applications necessary to establish the vegetative cover or to prevent invasive species and in accordance with an approved erosion and sedimentation control plan.
4. Agrivoltaics may be used provided that:
  - a. only shade tolerant crops are used;
  - b. a written erosion and sediment control plan is developed for agricultural plowing or tilling activities or a portion of the overall farm conservation plan identifies BMPs used;
  - c. any grazing, cutting or mowing of the agricultural crop is limited to the accepted best management practice height for that crop;
  - d. application of chemical fertilization or herbicides/pesticides is limited to the agronomic needs of the crop(s);
  - e. if the property will be used for grazing of livestock, and/or manure application to crop land, a manure management plan must be developed.
- iii. Where the Solar Panels within a Solar Array are arranged in a fashion that:
  1. allows the passage of runoff between each solar panel, thereby minimizing the creation of concentrated runoff; and/or
  2. allows for the growth of vegetation beneath the panel and between the solar arrays.
- c. The horizontal area of a solar panel or solar array that cannot meet all the conditions to be considered a DIA shall be treated as impervious area. These areas shall be included in the pre-development to post-development runoff analysis as impervious area to determine the need for Post-Construction Stormwater Management (PCSM) best management practices.
  - i. Use of gravel is permissible under a panel or in the receiving downhill flow path; however, the use of gravel would not allow the horizontal area of the solar panel or solar array to be considered as a DIA.
  - ii. All impervious areas associated with the PSES such as roadways and support buildings cannot be considered as DIAs and shall follow normal protocols when performing the PCSM stormwater analysis.
6. Buffer and Screening Requirements: Ground mounted solar energy facilities shall be buffered and screened from adjacent residential zoning districts, residential uses on surrounding properties, platted residential lots, and public roads in accordance with the following requirements:

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- a. Vegetative buffering shall be installed to screen and buffer adjacent residential zoning districts, residential uses on surrounding properties, platted residential lots, and public roads from the PSES. The Board of Supervisors may waive or modify this requirement in areas where it determines that the retention of existing trees within the vegetative buffering area may constitute the required vegetative buffer or where the Board determines that the solar panels cannot be viewed from adjacent residential zoning districts, residential uses on surrounding properties, platted residential lots, and public roads.
  - b. The vegetative buffering shall be installed along the exterior side of the fencing. All required vegetative buffering shall be located within fifty (50) feet of the required fencing.
  - c. Vegetative buffering should be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape where the PSES is proposed. The Applicant shall access the species mix and characteristics found in existing tree lines, hedge rows, and wooded areas surrounding the PSES and document that the vegetative buffering is designed to emulate these characteristics.
  - d. Vegetative buffering shall be selected to provide year-round buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility, as set forth herein within thirty-six (36) months of the installation of the PSES.
  - e. A combination of natural topography and vegetation may serve as a buffer, provided that the PSES will not be visible from adjacent residential zoning districts, residential uses on surrounding properties, platted residential lots, and public roads. Earthen berms may not be created to serve as a buffer.
  - f. The buffering requirements of this section shall supersede the provisions of Section 607.4 (A) Types of Screening, and Section 607.4 (B) General Design Standards of this Ordinance as they may pertain to PSES.
  - g. The requirements of Section 607.4 (C) Planting Requirements, Section 607.4 (D) Landscaping and Buffer Yard Maintenance, and Section 607.4 (E) Relief from Buffer Requirements of this Ordinance shall apply, as applicable.
7. Ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system
  8. Access
    - a. Stabilized access drives, with a dust-free surface, shall be installed from a state or local road in order to allow maintenance and emergency management vehicles to access the PSES site. The minimum cartway width shall be fourteen (14) feet. The PSES developer shall obtain a permit from the appropriate jurisdiction for the construction of the access road.

**Commented [JMM89]:** Omit or Revise as needed for consistency with the main body of the ordinance.

**Commented [JMM90]:** Omit or Revise as needed for consistency with the main body of the ordinance.

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- b. Solar arrays and other solar related equipment shall be setback a minimum of twenty (20) feet from the inside perimeter fencing to allow for maintenance and emergency vehicles.
  - c. Spacing between solar array rows shall allow access for maintenance and emergency vehicles.
9. Public Safety:
- a. The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).
  - b. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar energy system.
  - c. Ground mounted solar energy systems shall be enclosed by a fence, barrier or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the property.
  - d. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.
10. The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority. Any lighting shall be directed downward so as to minimize negative impacts to adjacent uses.

**Commented [JMM91]:** Some ordinances specify a fence height. Common are 6 to 8 feet with self-locking gate.

## Article 14 Wind Energy Facilities

### 1401 Title

This article shall be known as the "Wind Energy Facility Ordinance for North East Township" and shall be incorporated into and become a part of this chapter.

### 1402 Purpose

The purpose of this article is to establish an area permitting the construction and operation of wind energy facilities in North East Township, subject to rules and regulations intended to protect the public health, safety and welfare.

### 1403 Definitions Specific to Wind Energy Facilities

As used in this article, the following terms shall have the meanings indicated:

**Applicant:** The person or entity filing an application under this article.

**Facility Owner:** The entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.

**Commented [JMM92]:** This Article is copied from current ordinance, Article XIII.

The only difference is that a definition has been added for small wind turbines. The defined term is used in section 1404 (A). The current ordinance treats "small wind turbines" in a similar manner. It just doesn't provide a name or definition for them.

**Hub Height:** The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blades are attached.

**Nonparticipating Landowner:** Any landowner except those on whose property all or a portion of a wind energy facility is authorized pursuant to an agreement with the facility owner or operator.

**Occupied Building:** A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

**Operator:** The entity responsible for the day-to-day operation and maintenance of the wind energy facility.

**Renewable Energy District:** The area as shown on the map attached hereto, made a part hereof and labeled "Renewable Energy District Map."

**Turbine Height:** The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

**Wind Energy Facility:** An electric-generating facility whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**Wind Turbine:** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the nacelle, rotor, tower, and pad transformer, if any.

**Wind Turbine, Small:** A wind turbine which is designed and used solely to generate power to serve a principal and/or accessory building located on the lot on which said turbine is situated (without regard to any excess power generated going to a power grid).

**Commented [JMM93]:** This definition is new. Current ordinance exempts them if they are less than 200 feet high. However, it does not name or define them.  
See also current 350-43, and draft section 1002.53 which apply conditions to small wind turbines.

### 1404 Applicability

- A. This article applies to all wind energy facilities proposed to be constructed after the effective date of this article, except that this article is not intended to apply to small wind turbines less than 200 feet in total height and constructed to serve a principal and/or accessory building located on the lot on which said turbine is situated (without regard to any excess power generated going to a power grid).
- B. Wind energy facilities constructed prior to the effective date of this article shall not be required to meet the requirements of this article, provided that any physical modification to an existing wind energy facility that materially alters the size, type or number of wind turbines or other equipment shall require a permit under this article.

**Commented [JMM94]:** Similar to current 350-104 (A) except that the term "small" wind turbine has been substituted for "stand-alone" wind turbine. Also, it is recommended that small wind turbines should be permitted for all types of uses, including commercial & industrial, rather than being limited to residential and farm uses.  
Note that small wind turbines have been added to the district use matrix. They can be permitted or prohibited from various zoning districts, as desired by the Township.

### 1405 Permitted Use

A wind energy facility shall be considered a permitted only in the Renewable Energy District.

### 1406 Permit Requirement

- A. No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within North East Township unless a zoning permit has been issued to the facility owner or operator, approving construction of the facility under this article.
- B. The zoning permit application or amended permit application shall be accompanied with a fee as set by resolution of the Board of Supervisors for each wind turbine.
- C. Any physical modification to an existing or permitted wind energy facility that materially alters the size, type or number of wind turbines or other equipment shall require a permit modification under this article, and a fee as set forth in Subsection B, above, shall be paid. Like-kind replacements shall not require a permit modification.

### 1407 Permit Application

- A. The permit application shall demonstrate that the proposed wind energy facility will comply with this article.
- B. The application shall contain the following:
  - 1. A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers; and a description of ancillary facilities.
  - 2. An affidavit or similar evidence of agreement between the property owner(s) and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner(s) to apply for necessary permits for construction and operation of the wind energy facility.
  - 3. Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located and copies of all recorded setback waivers.
  - 4. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
  - 5. Documents related to decommissioning.
  - 6. A hydrologic analysis of surface and subsurface water systems conducted by a certified hydrogeologist. The study shall address all potential affects the construction and operation of the wind turbine could have on the aquifer and existing water wells, springs and other water sources. The study shall set forth the nature and extent of any potential effects on the aquifer, water wells, springs and other water sources, along with the likelihood thereof.
  - 7. A flicker study demonstrating that flicker shall not exceed 25 hours per twelve-month period at any occupied structure, unless waived.

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8. Other relevant studies, reports, certifications and approvals as may be reasonably requested by North East Township to ensure compliance with this article and such permits as are required by applicable state or federal law, rule or regulations.
- C. Within 30 days after receipt of a permit application, the North East Township Zoning Administrator will determine whether the application is complete and advise the applicant accordingly.
- D. Within 60 days of a completeness determination, North East Township will schedule a public informational meeting. The applicant shall present the project to the public and municipal officials and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
- E. Within 120 days of a completeness determination, or within 45 days after the informational meeting, whichever is later, the Zoning Administrator will issue or deny the permit.
- F. Throughout the permit process, the applicant shall promptly notify North East Township of any changes to the information contained in the permit application.
- G. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed informational meeting.

#### **1408 Design and Installation**

- A. Design safety certification. The design of the wind energy facility shall conform to applicable industry standards, including, but not limited to, those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations. Wind energy facilities shall be promptly modified to comply with changes in design standards.
- B. Uniform Construction Code. The wind energy facility shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§ 403.1 through 403.142, and a building permit or permits shall be obtained and all related fees paid prior to construction.
- C. Controls and brakes. All wind energy facilities 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 shall not be considered a sufficient braking system for overspeed protection. Ice sensors and control systems shall be employed to limit potential damage from falling ice.
- D. Electrical components. All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes and relevant and applicable international standards.
- E. Visual appearance; power lines.
  1. Wind turbines shall be a nonobtrusive color such as white, off-white or gray.
  2. Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  3. Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator.

4. On-site transmission power lines shall be placed underground and all off-site power lines shall, to the maximum extent possible, be placed underground.
- F. Warnings.
1. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  2. 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.
- G. Climb prevention/locks.
1. Wind turbines shall not be climbable up to 15 feet above ground surface.
  2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by unauthorized persons.
- H. Turbine height shall not exceed 550 feet.

#### 1409 Setbacks

- A. Wind turbines shall comply with all of the following setback requirements:
1. Occupied buildings. Wind turbines shall be set back from the nearest occupied building a distance of not less than five times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  2. Property lines. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.75 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
  3. Public roads. All wind turbines shall be set back from all public roads a distance of not less than 1.1 times the turbine height, as measured from the nearest right-of-way line of all public roads to the center of the wind turbine base.
- B. Accessory structures and buildings shall be located not less than 120 feet from all road rights-of-way and property lines of nonparticipating properties.

#### 1410 Waiver of Setbacks

- A. Property owners may waive the setback requirements in Section 1409 A (1) (occupied buildings) and Section 1409 A (2) (property lines), except for normal setback requirements for the zoning classifications, by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
- B. The written waiver shall notify the property owner(s) of the setback required by this article, describe how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be set back as required by this article.
- C. Any such waiver shall be recorded in the Recorder of Deeds Office for Erie County. The waiver shall describe the properties benefitted and burdened and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.

#### **1411 Use of Public Roads**

- A. The applicant shall identify all state and local public roads to be used within North East Township to transport equipment and parts for construction, operation or maintenance of the wind energy facility.
- B. North East Township's Engineer or a qualified third-party engineer hired by North East Township, and both to be paid for by the applicant, shall document road conditions prior to construction. The Engineer shall document road conditions again 30 days after construction is complete or as weather permits.
- C. North East Township will require bonding of the roads in compliance with state regulations and applicable Township ordinances.
- D. Any road damage caused by the applicant or its contractors shall be repaired at the applicant's expense, in accordance with applicable Township ordinances and state regulations.
- E. The applicant shall demonstrate that it has appropriate financial assurance to ensure the repair of damaged roads.

#### **1412 Local Emergency Services**

- A. The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).
- B. Upon request of the Township, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.
- C. Applicant shall obtain a street address for each wind turbine.

#### **1413 Noise, Shadow Flicker and Groundwater**

- A. Audible sound from a wind energy facility shall not exceed 50 dBA, as measured at the property line of a nonparticipating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall utilize calibrated sound level instrumentation that complies with the latest revision of ANSI S1.4, Specifications of Sound Level Meters, Type 1 or better, and shall be conducted by an appropriately qualified individual. Upon request of the Township, the facility owner and operator shall institute testing and provide all data showing compliance.
- B. The facility owner and the operator shall make every effort to minimize shadow flicker to any occupied building. Unless waived by the property owner by recorded written document as described in Section 1410, the presence of shadow flicker shall not exceed 25 hours in total per twelve-month period. In addition, the facility owner and the operator shall pay for or provide suitable window shades and/or trees to mitigate the effect of permitted shadow flicker.
- C. Groundwater.
  - 1. All wind energy facilities shall be designed and constructed in such fashion as to avoid any disruption and/or interference with private wells, springs and/or other sources of water. No wind energy facility shall be constructed when the hydrologic study shows that there is a substantial likelihood of adverse effect upon water wells, springs and/or other water sources. In the event a problem occurs with a private water source, which problem is proximately caused by the wind energy facility, the facility owner and the operator shall

immediately, and within six months, permanently supply potable water in such quantity and quality as was supplied by the original private water source.

2. If the hydrogeologist report, as required by Section 1407 B(6), should reveal a potential adverse impact upon existing private water wells, the facility owner and operator shall post a bond, acceptable to the Township, in the amount of \$20,000 for the first well potentially affected and an additional \$10,000 for each and every additional well which could potentially be affected. This bond is established for the purpose of ensuring compliance with the requirements of this subsection. If the facility owner and operator should fail to comply with the requirements as set forth herein, the bond may be called and the funds applied to the costs of replacing and/or restoring affected water sources. The liability of the facility owner and the operator shall not be limited to the amount of the bond.

#### **1414 Signal Interference**

The facility owner or the operator shall make every effort to avoid any disruption or loss of radio, telephone, television or similar signals and shall take all reasonable steps to mitigate any harm caused by the wind energy facility. In the event such a loss or disruption should occur, the facility owner and the operator shall take reasonable steps to mitigate the effect.

#### **1415 Liability Insurance**

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$10,000,000 per occurrence and \$20,000,000 in the aggregate. The facility owner or operator shall ensure that current certificates of insurance are continuously on file at North East Township.

#### **1416 Decommissioning**

- A. The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within 12 months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months.
- B. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
- C. Disturbed earth shall be graded and reseeded, unless the landowner requests, in writing, that the access roads or other land surface areas not be restored.
- D. An independent and certified professional engineer shall be retained by the facility owner or operator to estimate the total cost of decommissioning ("decommissioning costs") without regard to salvage value of the equipment. Said estimates shall be submitted to North East Township prior to construction and every fifth year thereafter.
- E. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or commonwealth chartered lending institution chosen by the facility

owner or operator, provided that the bonding company or lending institution is authorized to conduct such business within the commonwealth and is approved by North East Township.

- F. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance as may be acceptable to North East Township.
- G. If the facility owner or operator fails to complete decommissioning within the period prescribed by Subsection A, then the landowner shall have six months to complete decommissioning.
- H. If decommissioning is not completed within the periods prescribed by Subsections A and G, then North East Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to North East Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that North East Township may take such action as necessary to implement the decommissioning plan.
- I. The decommissioning funds shall be released when the facility owner or operator has demonstrated and North East Township concurs that decommissioning has been satisfactorily completed, or upon written approval of North East Township, in order to implement the decommissioning plan.

#### **1417 Public Inquiries and Complaints**

- A. The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project. This person shall coordinate mitigation efforts as required by this article.
- B. The facility owner and operator shall make reasonable efforts to respond to all public inquiries and complaints within five business days.

#### **1418 Compliance Required**

It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this article, or any permit issued under this article, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this article or any permit issued under this article.

#### **1419 Severability**

If any section, subsection, sentence, clause or phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

#### **1420 Violations and Penalties**

Any owner, operator, or other person who violates or permits a violation of this article shall be subject to the enforcement procedures and penalties set forth in this chapter.