

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLE SMITHFIELD BY COMPREHENSIVELY AMENDING CHAPTER 200, ZONING

WHEREAS, the Board of Supervisors of the Township of Middle Smithfield has heretofore adopted a comprehensive compilation of ordinances of the Township entitled the “Code of the Township of Middle Smithfield” (the “Code”); and

WHEREAS, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

WHEREAS, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

WHEREAS, the Pennsylvania Second Class Township Code, Act of May 1, 1933, P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, at 53 P.S. 66506, authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

WHEREAS, the Second Class Township Code, at 53 P.S. 66516, authorizes the Board of Supervisors to plan for the development of the Township through zoning, subdivision and land development regulations under the Act of July 31, 1968 (P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code; and

WHEREAS, pursuant to such authority, the Township has enacted the Middle Smithfield Township Zoning Ordinance of 2010-A, which is codified in the Code of Ordinances of the Township of Middle Smithfield, as heretofore amended, at Chapter 200, Zoning (the “Zoning Ordinance”); and

WHEREAS, Section 609 of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted by the Act of December 21, 1988, P.L. 1329, No. 170, found at 53 P.S. 10609, sets forth provisions for the enactment of amendments to zoning ordinances pursuant to certain procedural formalities; and

WHEREAS, from time to time the Board of Supervisors reviews the Zoning Ordinance for possible amendments that would be in the best interests of residents, property owners, and businesses, among others, in the Township; and

WHEREAS, the Board of Supervisors finds that it is in the best interests of the Township residents’ health, safety and welfare to amend the Zoning Ordinance as provided herein

for one or more of the following purposes: (i) provide for reasonable use of land including the requirement for open space, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; (ii) regulate the size, height, bulk, location and use of structures; (iii) establish the density of populations and intensity of use of land; (iv) preservation of the beauty and unique character of the Township; (v) furtherance of economic development; and, (vi) provide for efficiency in transportation.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1: Articles I through XIII of Chapter 200, Zoning, of the Code of Ordinances of the Township of Middle Smithfield, herein referred to as the Zoning Ordinance, are hereby amended and restated in their entirety as set forth in Exhibit "A" attached hereto, the provisions of which are incorporated herein by reference as though set forth at length.

SECTION 2: Attachment 3, Table of Use Regulations, of Chapter 200, Zoning, of the Code of Ordinances of the Township of Middle Smithfield is hereby amended and restated in its entirety as set forth in Exhibit "B" attached hereto, the provisions of which are incorporated herein by reference as though set forth at length.

SECTION 3: Allegations that this Ordinance or any amendment was enacted in a procedurally defective manner shall be appealed as provided in State law and be filed not later than thirty (30) days after the intended effective date of this Ordinance or amendment.

SECTION 4: If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

SECTION 5: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. To the extent the provisions of this Ordinance and the amended Zoning Ordinance are the same or similar in substance to Zoning Ordinance provisions in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior provisions and not as new provisions. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance.

SECTION 6: This Ordinance shall take effect five (5) days after the date of its enactment.

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ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania this \_\_\_\_ day of \_\_\_\_\_, 2025.

TOWNSHIP OF MIDDLE SMITHFIELD  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Annette Atkinson, Chairperson

\_\_\_\_\_  
Mark Oney, Vice Chairperson

\_\_\_\_\_  
Michael J. Dwyer, Supervisor

(TOWNSHIP SEAL)

\_\_\_\_\_  
Township Secretary

# Exhibit A

## **ARTICLE I: GENERAL PROVISIONS**

### **DIVISION 10: GENERAL PROVISIONS**

#### **§ 010-010. Short Title.**

This chapter shall be known as and may be cited as the "Middle Smithfield Township Zoning Ordinance", as amended from time to time.

#### **§ 010-020. Interpretation of Ordinance Provisions.**

- A. The language of this Ordinance shall be interpreted, where doubt exists as to the intended meaning of the language, in favor of the property owner and against any implied extension of the restriction.
- B. Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply.
- C. The provisions of this Ordinance are in addition to any other federal, state or local applicable rules and regulations.
- D. The names "Township," "Township of Middle Smithfield" and "Middle Smithfield Township" may be used interchangeably throughout this Ordinance with the same intent.
- E. The terms "ordinance" and "chapter" may also be used interchangeably with the same intent.
- F. The terms "governing body," "Board of Supervisors" and the "Middle Smithfield Township Board of Supervisors" may be used interchangeably with the same intent.
- G. Chapter, division and § headings are not regulatory.

#### **§ 010-030. Intent.**

This Chapter is intended to:

- A. Provide the regulations for permitting, prohibiting, regulating and determining, to the extent not superseded or preempted by federal or state law, the uses of land, watercourses and other bodies of water to be occupied by uses and structures and open space, as well as areas, courts, yards and other open spaces and distances to be left unoccupied by uses and structures.
- B. Regulate the size, height, bulk, location, erection, construction, repair, expansion, maintenance, alteration, razing, removal and use of structures;
- C. Establish the density of population and intensity of use;
- D. Provide for the protection and preservation of natural and historic resources, and prime agricultural lands and activities; and

- E. Provide for the administration and enforcement of this Chapter in accordance with the Pennsylvania Municipalities Planning Code<sup>1</sup> as amended (hereinafter referred to as the “MPC”), including provisions for conditional uses to be administered by the governing body and for special exceptions and variances to be administered by a Zoning Hearing Board.

**§ 010-040. Purpose and Community Development Objectives.**

- A. The purpose of this Ordinance is the implementation of the Middle Smithfield Township Comprehensive Plan Update: 2022, adopted January 27, 2022, (hereinafter referred to as “Comprehensive Plan”) and the promotion of the health, safety, convenience, order, and welfare of present and future inhabitants of Middle Smithfield Township.
- B. This Chapter is hereby adopted:
  - 1) In accordance with the requirements and purposes of the MPC, as amended.
  - 2) In accordance with goals and objectives of the Comprehensive Plan which are hereby included by reference thereto.

**§ 010-050. Effect of Comprehensive Plan on Zoning Ordinance.**

- A. This Ordinance is “generally consistent” with the Comprehensive Plan; however, where there is a conflict between the Comprehensive Plan and this Ordinance, then this Ordinance shall prevail.
- B. It is the general intent of this Ordinance that Chapter 3, Considerations for Future Land Use and Development Practices, of the Comprehensive Plan shall be followed.

**§ 010-060. Effect of Ordinance.**

- A. No structure shall be erected, constructed, razed, moved, altered, rebuilt or enlarged; and no use of a structure or land or water area shall be established or changed for any purpose nor in any manner except in conformity with all regulations, requirements and controls and after issuance of a Zoning Permit as specified in this Ordinance, except as hereinafter provided.
- B. No structure hereafter constructed, erected, rebuilt, enlarged or altered; nor any use of land or water areas established under a zoning permit shall be occupied or used in whole or in part for any use whatsoever and no change of use of any structure or land or water area shall hereafter be made until a Certificate of Occupancy issued by a Township-authorized Building Code Official and/or a Change of Use Permit and/or a Certificate of Compliance has been issued by the Zoning Officer indicating that the structure or use complies with all other applicable provisions of this

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<sup>1</sup> Editor’s Note: See 53 P.S. § 10101 et seq.

Ordinance.

**§ 010-070.     Applicability.**

- A.     This Chapter shall apply throughout the Township of Middle Smithfield. Any of the following activities or any other activity regulated by this Chapter shall only be carried out in conformity with this Chapter, to wit:
  - 1)   Erection, construction, movement, placement, expansion, extension, reduction and/or demolition of a structure, building, sign and/or area of land;
  - 2)   Creation of a lot or alteration of lot lines; and/or
  - 3)   Creation of a new use and/or change in use.
- B.     A Zoning Permit is required to be issued prior to the start of any of the following activities throughout the Township of Middle Smithfield:
  - 1)   Erection, construction, movement, placement, expansion, extension, reduction and/or demolition of a structure, building, sign and/or area of land;
  - 2)   Creation of a new use and/or change in use; and/or
  - 3)   Site Alterations.
- C.     A Certificate of Compliance is required throughout the Township of Middle Smithfield.
  - 1)     It shall be unlawful to use and/or occupy any principal building and/or any accessory structure that requires Building Code compliance or establish any new or replacement principal nonresidential use and/or any replacement accessory structure that requires Building Code compliance until a Zoning Permit and/or Certificate of Compliance for such building, structure or use has been issued by the Zoning Officer.
  - 2)     The Zoning Officer may allow the zoning permit application to serve as the application for the Certificate of Compliance depending on the Certificate of Occupancy being issued.
  - 3)     A Certificate of Compliance shall only be issued by the Zoning Officer if the Zoning Officer determines that the activity complies with this Chapter, to the best of the Zoning Officer's knowledge, information and belief. The Township may also withhold issuance of the certificate until there is compliance with other Township ordinances, including, but not limited to, the Subdivision and Land Development Ordinance (SALDO)<sup>2</sup>, as amended from time to time.
  - 4)     The applicant shall keep a copy of the Certificate of Compliance as well as the Certificate of Occupancy, if applicable, available for inspection.
  - 5)     Upon the request of an applicant, the Zoning Officer may issue a temporary Certificate of Compliance; such temporary certificate(s) may permit an

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<sup>2</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

activity to occur in all or part of a structure before the entire work covered by the permit has been completed.

- a. Temporary certificate(s) shall only be issued if the applicant proves to the satisfaction of the Zoning Officer that the activity or occupancy can occur safely without endangering public health or safety.
  - b. The temporary certificate shall establish in writing a maximum time period under which it is valid; a six month maximum time period shall apply if not otherwise specified.
  - c. Failure to receive a Zoning Permit, Certificate of Compliance and/or Certificate of Occupancy (from the building department) within such time period shall be a violation of this Chapter.
  - d. The temporary certificate may be conditioned upon compliance with certain specific requirements within certain time periods.
- D. Ordinary Repairs and Maintenance. An ordinary repair and/or maintenance to an existing structure shall not by itself be regulated by this Chapter; however, a construction permit under any Township Building Code may be needed for such work.

**§ 010-080. Disclaimer of Liability.**

These regulations shall not create any liability on the part of the Middle Smithfield Township Board of Supervisors, the Planning Commission, or any employee or lawfully appointed officer or consultant of the Township for damages that may result from reliance on this Chapter, any amendment thereto, or any administrative decisions lawfully made thereunder.

**§ 010-090. Severability.**

- A. If a court of competent jurisdiction declares any provision of this Chapter to be illegal, invalid or unenforceable, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be illegal, invalid or unenforceable, and all other provisions of this Chapter shall continue in full force and effect.
- B. If the entire Chapter should be declared illegal, invalid, or unenforceable by a court of competent jurisdiction, then the Zoning Ordinance that was in effect immediately prior to the enactment of this new Chapter shall automatically be reinstated as the Township's Zoning Ordinance.

**§ 010-100. Continuation of Prior Provisions**

To the extent the provisions of this Chapter are the same or similar in substance to Zoning Ordinance provisions in force immediately prior to adoption of this Chapter, the provisions of this Chapter are intended as a continuation of such prior provisions and not as new



provisions. The provisions of this Chapter shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Chapter.

**§ 010-110. Repealer.**

All Middle Smithfield Township Ordinances or parts of Ordinances inconsistent with this Chapter are hereby repealed, but only insofar as the same are inconsistent herewith.

## ARTICLE II: DEFINITIONS

### DIVISION 20: Word Usage; Terms Defined

#### § 020-010: Rules of Interpretation.

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

- A. Words in the present tense shall include the future tense.
- B. The words "should" and "may" are permissive; whereas, the words "shall" and "will" are mandatory and directive and are not discretionary.
- C. Tense, gender, and number. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; and the singular includes the plural and vice-versa.
- D. If a word or term is not defined by this Chapter, but is defined in the Township's Subdivision and Land Development Ordinance (hereinafter referred to "SALDO")<sup>3</sup>, then the SALDO definition shall apply. If a word or term is neither defined in this Chapter nor the SALDO, then the word or term shall have its plain and ordinary meaning within the context of the section. A standard reference dictionary should be consulted. If there is a conflict between the definitions within the Township SALDO and this Ordinance, the definition set forth in this Ordinance shall control this Chapter.

#### § 020-020: Definition of Terms.

When used in this Chapter, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

**ABUT or ABUTTING** - Two or more contiguous lots, pieces or parcels of land, that share a common point or lot line.

**ACCESSORY SOLAR ENERGY SYSTEM:** An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground or roof mounted solar arrays or modules and/or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

**ACCESSORY STRUCTURE** - A structure clearly incidental and subordinate to, and customarily in connection with, and located on the same lot, piece or parcel of land as the principal structure.

**ACCESSORY USE** - A use clearly incidental and subordinate to and customarily in

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<sup>3</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

connection with and located on the same lot, piece or parcel of land as the principal use.

**ADJACENT** - Two or more lots that share a common point or lot line or would share a common point or lot line but for an alley, right-of-way, street or watercourse separating them. An abutting lot is always an adjacent lot; however, an adjacent lot is not always an abutting lot. Abutting imparts that the lots are so joined and united to each other that no third object intervenes.

**ADJUSTED TRACT AREA** - The total lot area within a subdivision or land development plan minus the percentages of land area with certain features, as provided in Article XIII of this Chapter.

**ADULT USE** - Adult bookstore, adult movie theater, adult massage parlor, or adult live entertainment facility. These terms shall each be distinct types of adult uses as defined herein.

A. **ADULT USE, BOOKSTORE** - A use that has over 10% of the total floor area occupied by items for sale and/or rent that are books, films, newspapers, magazines, DVDs, videotapes, or other recorded format; coin- or token-operated films, videotapes, or other recorded format; paraphernalia, novelties or other materials and/or media which are distinguished or characterized by a clear emphasis on matter depicting, displaying, describing or relating to specified sexual activities. This shall include but not be limited to materials that would be illegal to sell to persons under age 18 under state law. If such items are within a separate room, then the 10% standard shall apply to the floor area of such room.

B. **ADULT USE, LIVE ENTERTAINMENT FACILITY** - A use including live entertainment involving both Subsections (1) and (2) below:

1) One or more adults in the facility (which may include, but not be limited to, waiters, waitresses, dancers, clerk, bartenders, contractors or others) who are:

2). Displaying uncovered male or female genitals or nude or almost nude female breasts; or

3). Engaging in simulated or actual “adult use, specified sexual activities” or repetitive contact between the genital areas of two or more adults or between the anal and genital areas of two or more adults; and

4). Which is related to an entrance charge, cover charge, tips or other monetary compensation paid by the spectators, patrons and/or customers to the person or entity operating the use or to persons involved in such activity.

C. **ADULT USE, MASSAGE PARLOR** - An establishment involving massages given between adults for consideration. For therapeutic massages see “Health Spa.”

D. **ADULT USE, MOVIE THEATER** - An establishment, where for any form of consideration, films, motion pictures, video cassettes, slides, DVDs or similar photographic reproductions are shown in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities.

E. **ADULT USE, SPECIFIED SEXUAL ACTIVITIES** - As used herein:

- 1)The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- 2)Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- 3)Masturbation, actual or simulated; or
- 4)Excretory functions as part of or in connection with any of the activities set forth herein.

**AGRICULTURE, GENERAL** - The cultivation of the soil and the raising and harvesting of the products of the soil, including but not limited to, the “Nursery” use and also including the customarily accessory “Livestock, Keeping of” use, which includes the housing, grazing or breeding of grazing animals or poultry livestock, birds or fowl; the “Agriculture, General” use does not include “Agriculture, Intensive”.

**AGRICULTURE, INTENSIVE** - The commercial production of agricultural, agronomic, horticultural, silvicultural and/or aquacultural crops and/or commodities for market, The “Livestock, Keeping of” as the principal use, or the commercial raising of mushrooms shall also be considered Agricultural, Intensive.

**AGRICULTURE, RETAIL** - A seasonal selling or offering for sale at retail by vendors who have home-grown vegetables, produce, flowers that they are offering for sale or have themselves prepared homemade commodities (i.e. jams, jellies, canned pickles...) that are being offered for retail sale occurring in a pre-designated area.

**AIRPORT** - Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary passenger and cargo facilities, fueling, maintenance, repair, storage, and emergency services facilities.

**ALLEY** - A publicly or privately owned right-of-way which provides a secondary means of access to the side or rear of abutting property and not intended for general traffic circulation.

**ALTERATION** - As applied to building, structure or sign, means a change, rearrangement, renovation, relocation, or enlargement in the structural parts or exterior or which would change its use classification.

**ALTERNATIVE TOWER STRUCTURE** - Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANIMAL, DOMESTIC** - Any animal customarily kept by humans for companionship that are commonly sold in retail pet shops within the community and does not require a special handling license and normally habituates under the same roof as its owner/master including, but not limited to, dogs, cats, rodents, birds, gerbils, rabbits, insects, hamsters, fish and reptiles.

**ANIMAL, EXOTIC** – Animals that are regulated as “Exotic Wildlife” by the Pennsylvania Game Commission. This term shall also include animals of the family Felidae except those species commonly called “house cats” and members of the family Canidae except those commonly called “dogs”, and those licensed by the Pennsylvania

Game Commission. Wolves and wolf-dog hybrids shall also be considered to be exotic animals. Exotic animals shall also include all non-native animals, except small animals and birds customarily kept as house pets. Notwithstanding the foregoing, Llamas and Alpacas are not to be classified as exotic animals.

**ANIMAL, GRAZING** - Animals that subsist wholly or partly on naturally growing pastures.

**ANIMAL, GRAZING UNIT**- One grazing animal constitutes a grazing Unit.; suckling offspring are included within the same animal unit as the mother until weaned.

**ANIMAL, LIVESTOCK** – See “Livestock”.

**ANIMAL, NON-GRAZING** - Animals that exist in confined pens, cages, buildings or feed lots.

**ANIMAL, POULTRY** - Birds kept either in pens or structures for the purpose of providing food, clothing, breeding and production, including but not limited to chickens, turkeys, ducks, geese, pigeons, pheasants or other fowl.

**ANIMAL EQUIVALENT UNIT** - One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit. Definition obtained from PA Nutrient Management Act (Act 38)

**ANTENNA** - An exterior device or apparatus designed for but not limited to cellular, digital, telephone, radio, pager, commercial mobile radio, television, microwave or any other wireless communications through transmission and/or receiving of electromagnetic waves, or otherwise.

**ANTENNA HEIGHT** - The vertical distance from the base of the antenna/tower support structure at grade to the highest point of the structure, including any attachment thereto. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**APPLICANT** - A landowner or developer, who has filed an application for development, including his heirs, successors and assigns.

**ASPHALT FACILITY** – See “Extractive Operations, Sand & Gravel Pit & Asphalt/Concrete Facility”.

**ASSISTED LIVING CENTER** – A use involving the housing, care and supervision of elderly persons and persons with disabilities and which is licensed by the Commonwealth of Pennsylvania as an Assisted Living Center.

**ATHLETIC FACILITY** – See “Recreational Facility”.

**AWNING** - Any material such as fabric, glass, flexible plastic or metal that is supported by or stretched over a frame that is attached to an exterior wall which may or may not be retractable.

**BAR** – See “Night Club/Bar/Tavern”.

**BASEMENT** - That portion of a building that is partly or completely below grade.

**BED AND BREAKFAST** - A dwelling occupied by the Bed and Breakfast business owner, where no more than eight Bed and Breakfast Units are rented to overnight guests

on a nightly basis; for periods of not more than thirty (30) days. Breakfast or brunch for overnight guests is the only meal that may be provided.

**BED AND BREAKFAST UNIT** - A room or group of rooms in a Bed and Breakfast forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes.

**BELFRY** - A tower or a room in a tower for a bell or set of bells.

**BERM** - An earthen mound designed to create a visual and/or sound barrier between a use and adjoining properties, streets, and adjacent uses and/or to retain water, earth or activity on one side of the mound from the other side.

**BLIGHT** - The physical deterioration of a building because of lack of proper maintenance or repair, or the collection of excessive trash and debris within or around a building.

**BOARD OF SUPERVISORS** - The Board of Supervisors of Middle Smithfield Township, Monroe County, Commonwealth of Pennsylvania.

**BUFFER** - An area separating two different types of zones, classes, areas, uses, or districts to make each blend more easily with each other (e.g. strip of land between industrial and residential areas). The buffer shall only contain open space, approved pedestrian pathways, berms and landscaping to provide suitable screening. A buffer may be a part of the minimum setback distance, but land within an existing or future street right-of-way shall not be used to meet a buffer requirement.

**BUILDING** - A structure with walls and a roof that is designed for habitation, shelter, storage, trade, manufacture, religion, business, commerce, industry, education, and the like. A building is always a structure; however, a structure is not always a building.

A. **BUILDING, ATTACHED** - A Structure with enclosing walls as well as two party walls in common with an adjacent building.

B. **BUILDING, DETACHED** - A structure with enclosing walls but no common or party wall.

C. **BUILDING, SEMI-DETACHED** - A structure with enclosing walls and one party wall in common with an adjacent building.

**BUILDING AREA** - That portion of a lot, excluding required setback areas and restricted easement areas, upon which a structure can be erected.

**BUILDING COVERAGE** - The total area of a lot covered by all buildings and accessory structures divided by the total gross area of the lot equals the building coverage on a lot, usually expressed as a percentage.

**BUILDING HEIGHT** - The vertical distance measured from the average ground level on the exterior perimeter of the building to the highest point of the roof. Exceptions to height regulations shall apply to the following structures: church spires, belfries, farm structures, silos, chimneys, flues, stacks, fire escapes, parapets, gas holders, elevator enclosures, ventilators, skylights, water tanks, and similar roof structures needed to operate and maintain the building on which they are located, flag poles, television aerials, water towers and tanks, steeples and bell towers, carillons, monuments, cupolas, broadcasting and microwave transmitting and relay towers, electric transmission line towers, and electric

substation structures, and utility poles.

**BUILDING MATERIAL SALES** - Facilities and buildings designed for the sale of building materials, including, but not limited to lumber, tools, paints and other building supplies.

**BUILDING PERMIT** - See “Permit, Building.”

**BUILDING SETBACK LINE** - See “Setback, Building Line”.

**BUILDING SPACING** - The minimum distance, as set forth herein, between two buildings that shall be measured from the outermost wall or projection, including but not limited to, bay windows, chimneys, flues and columns.

**BUSINESS** - Any enterprise, occupation, trade or professional engaged in, either continuously or temporarily, for profit excluding retail, manufacturing and industrial. The term “business” shall include the occupancy or use of a building or lot or any portion thereof for the transaction of business or the rendering or receiving of professional services.

**BUSINESS PARK** - A business park is an area organized and laid out in accordance with an overall plan for a community of businesses, including the servicing of these businesses, and designed to insure compatibility between the business operations in the park and the surrounding area through such devices as landscaping, architectural control setbacks, and use requirements.

**BUS MAINTENANCE & STORAGE YARD** – An area designed for the parking of buses as well as facilities and buildings for the maintenance and repair of same.

**BUS SHELTER** – Structures to provide protection from adverse weather conditions while awaiting the arrival of public/school transportation.

**CAMPGROUND**–Shall mean a use that involves one or both of the following:

- A. **COMMERCIAL CAMP** - A business offering cottages, cabins or similar accommodations, with eating facilities, sanitary facilities and recreational and/or educational facilities to the public at large or any segment of the public for seasonal activities, such as religious and sports camps.
- B. **RECREATIONAL CAMPING PARK** - Any privately or municipally owned parcel of land accessible by automobile or other engine-driven vehicle designed for the purpose of supplying accommodations for overnight use by campers whether sleeping in tents, pop-ups and/or other recreational vehicles; and may include associated recreational facilities.

**CARTWAY** - That portion of a street right-of-way, paved or unpaved, including the shoulders of the road, intended for vehicular use.

**CAR WASH** - See “Drive-In Business.”

**CASINO** - See “Gaming/Gambling Establishment.”

**CEMETERY** – Land used for the burial or internment of the dead.

**CENTER LINE** - The center of the surveyed street, road, lane, alley or right-of-way, or when not surveyed, the center of the travelway.

**CERTIFICATE OF COMPLIANCE** - See “Permit, Certificate of Compliance.”

**CERTIFICATE OF OCCUPANCY** - See “Permit, Certificate of Occupancy.”

**CHANGE OF USE** - The discontinuance or change of an existing use within a building or on a lot to a new use or different kind or class of use under and subject to the regulations set forth herein.

**CLEAR SIGHT DISTANCE** - See “Sight Distance.”

**CLEAR SIGHT TRIANGLE** - See “Sight Triangle”.

**COLLOCATION** - To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

**COMMON OPEN SPACE** - An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development. *See also Open Space.*

**COMMUNICATIONS ANTENNA** - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

**COMMUNICATIONS ANCILLARY EQUIPMENT** - Any equipment serving or being used in conjunction with a WCF or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

**COMMUNITY CENTER** - An educational, social, cultural or other similar facility, operated by a public or non-profit group or agency.

**COMPREHENSIVE PLAN** - The Township plan document setting forth policies for future growth and development, and adopted by the Township pursuant to Article III of the Pennsylvania Municipalities Planning Code<sup>4</sup>.

**CONCRETE FACILITY** – See “Extractive Operations, Sand & Gravel Pit & Asphalt/Concrete Facility”.

**CONDITIONAL USE** - See “Use, Conditional”

**CONSERVATION DEVELOPMENT** - A Subdivision and/or Land Development that allows flexible development of areas with sensitive natural features in such a way as to: avoid severe soil erosion and sedimentation; avoid severely increased stormwater flows and velocity; steer development to those areas that are more physically suited for it; avoid construction of steep roads that are difficult, time-consuming, and expensive to maintain; avoid increased use of steep roads and driveways that are dangerous to drive upon in inclement weather; conserve forested areas that are an important part of the ecological cycle, providing for groundwater recharge, air pollution reduction and wildlife habitats; reduce construction costs; allow each property owner a reasonable use of their land, related

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<sup>4</sup> Editor’s Note: See 53 P.S. § 10101 et seq.



directly to the natural features and location and accessibility of the land; provide for the preservation of significant areas of preserved open space; and recognize that groundwater supplies and the ability of the ground to treat wastewater are limited.

**CONVENIENCE STORE** - A retail store with less than 5,000 square feet that sells food and beverages primarily for consumption off-premises and other household supplies and may also sell automotive fuel; does not include automotive service stations or vehicle repair shops; it is designed to attract a large volume of stop and go traffic.

**CONVERSION** - A change or adaptation of land or structure to a different use, occupancy or purpose.

**COUNTY COMPREHENSIVE PLAN** - A land use and growth management plan prepared by the Monroe County Planning Commission and adopted by the Monroe County Commissioners on June 30, 1999, which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulations.

**COUNTY PLANNING COMMISSION** - The Monroe County Planning Commission and its professional staff.

**CROSSWALK OR WALKWAY** - A strip of land, including a right-of-way dedicated to public use, to facilitate pedestrian access.

**DATA CENTER** - A building or buildings which are occupied primarily by computers and/or telecommunications and related equipment where digital information is processed, transferred and/or stored, primarily to and from offsite locations. This use does not include computers or telecommunications related equipment that is secondary and customarily incidental to an otherwise permitted use on the property, such as servers associated with an office building. This use shall also include cryptocurrency mining, blockchain transaction processing, and server farms. A Data Center may include Data Center Accessory Uses.

**DATA CENTER ACCESSORY USE:** Ancillary uses or structures secondary and incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; utility lines; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related equipment); security features, provided such data center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The use shall not include energy generation systems used or intended to be used to supply power to the Data Center during normal operations.

**DAY CARE CENTER, STATE LICENSED FACILITIES** - Any dwelling, building, or portion thereof, including any on-site outdoor play or recreation area, which provides care for children or adults, as further defined below.

A. **DAY CARE CENTER, CHILD** - The state-licensed premises in which care is provided at any one time for seven or more children unrelated to the operator, in accordance with state law, as amended.

B. **DAY CARE, FAMILY CHILD** - A state-licensed 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, in accordance with state law, as amended.

C. **DAY CARE, GROUP CHILD** - The state-licensed premises in which care is provided at one time for more than six but fewer than 16 older school-age children or more than six but fewer than 13 children of another age level who are unrelated to the operator, in accordance with state law, as amended. The term includes a facility located in a residence or another premises.

D. **DAY CARE, OLDER ADULT DAILY LIVING CENTER** - The state-licensed premises operated for profit or not-for-profit in which older adult daily living services are simultaneously provided for part of a 24-hour day for four or more clients how are not relatives of the operator, in accordance with state law, as amended.

E. **EXEMPT PREMISES** - The following exemptions apply:

- 1) The temporary or occasional care of three or less children or adults not related to the person giving care which takes place at the home of the person giving care.
- 2) The temporary or occasional care of three or less children or adults at a dwelling unit customarily and regularly occupied by the children or adults as their residence.

Note: See Article IV, Use Regulations within Zoning Districts, Division 40, §040-050.

**DENSITY** - Density is a measure of, and expressed in, the number of dwelling units per unit of area. The measure is arrived at by dividing the number of dwelling units by the Adjusted Tract Area, unless otherwise stated. See the dimensional (area) requirements for each dwelling based on the zoning district for use as the denominator, and the calculations used to determine the Adjusted Tract Area as defined elsewhere within this Chapter for use as the nominator, in order to determine the density.

**DEP** - The Pennsylvania Department of Environmental Protection and its relevant bureaus.

**DETENTION FACILITY** - Publicly or privately operated facility housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such facilities include an adult detention center, juvenile delinquency center and/or detention center, jail or prison but do not include temporary holding cells or sally-ports.

**DEVELOPER** - Any landowner or legally authorized agent of such landowner who makes or causes to be made a subdivision of land or a land development.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, the placement of mobile homes, streets or other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations and the subdivision of land.

**DEVELOPMENT PLAN** - The provisions for development, including a traditional neighborhood development<sup>5</sup>, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development,

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<sup>5</sup> Editor's Note: The Traditional Neighborhood Development (TND) Option was removed from Ch. 200 by Ord. No. 188, adopted 9-2-2012

streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan”, when used in this Ordinance, shall mean the written and graphic materials referred to in this definition.

**DILAPIDATED** - The substantial physical deterioration of a building because of misuse or lack of proper maintenance or repair, in a manner that has caused structural problems and/or a deteriorated roof, porch or walls.

**DORMITORY** - See “Dwelling, Dormitory”.

**DRIVE-IN BUSINESS** - An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service, obtain a product, or be entertained while remaining in a motor vehicle. Accessory services provided for customers which do not require the direct assistance of personnel of the establishment outside of the confines of the building (e.g. self-service gasoline pumps, vending machines, automatic teller machines, etc.) shall not be encompassed in this definition.

**DRIVEWAY** - A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having frontage on the road.

**DWELLING** - A structure providing complete, independent living facilities for one family including permanent provisions for cooking, eating, sanitation and sleeping. See “Types of Dwellings”.

- A. **DWELLING, ACCESSORY APARTMENT** - A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling unit, which shall only be occupied by a relative of the owner-occupant of the principal dwelling unit, except when said unit is in a TND project.
- B. **DWELLING, APARTMENT COMPLEX** - One or more dwelling units within a building that do not meet the definition of single-family detached dwelling, twin dwelling, duplex, or townhouse/rowhouse. The individual dwelling units may be leased or sold for condominium ownership.
- C. **DWELLING, BOARDING HOUSE** - A residential structure in which room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation by more than the maximum permitted unrelated persons for a standard dwelling unit; may also be referred to as a “Rooming House” or “Lodging House”. A boarding house shall not include a use that meets the definition of a hotel/motel/inn, dormitory, life-care center, personal care center, bed and breakfast, group home or nursing home. A college fraternity/sorority house used as a residence shall be considered a type of boarding house. Emergency, temporary or permanent homeless shelters may 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 it meets the requirements for a restaurant.
- D. **DWELLING, DORMITORY** - A structure used primarily as a residence for multiple persons not related by blood or marriage. A dormitory shall include but not be limited to housing for students, fraternities, and sororities and also all other structures occupied by groups of persons unrelated by blood or marriage sharing a dwelling as their primary

permanent residence. Dormitories shall not include boarding houses, nursing homes, group homes, or any housing arrangement where a group of persons unrelated by blood or marriage live together as a family.

- E. **DWELLING, DUPLEX** - A structure with two dwelling units whereby one dwelling unit accommodating one family is attached to but completely separated by a vertical un-pierced fire-resistant wall to only one additional dwelling unit. One side yard, a rear yard and a front yard shall be adjacent to each dwelling unit. Each unit may or may not be on a separate lot from the attached dwelling unit.
- F. **DWELLING, GROUP HOME** - A dwelling unit operated by a responsible individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the persons served due to age, emotional, mental, developmental or physical disability. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the Federal Fair Housing Act<sup>6</sup>, as amended. Group homes shall be subject to the same limitations and regulations by the Township as the type of dwelling unit they occupy.

1)It is the express intent of the Township to comply with all provisions of the Federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term.

2)A Group home shall not include a treatment center.

- G. **DWELLING, HOMELESS SHELTER, PERMANENT** - A facility providing, on a nonprofit basis, and without charge, temporary lodging, with or without meals, to indigent, needy, or homeless persons. This use may also provide ancillary services such as, but not limited to, counseling and vocational training. This use operates for more days than a Temporary Homeless Shelter.

- H. **DWELLING, HOMELESS SHELTER, TEMPORARY** - The Temporary use of a facility providing, on a nonprofit basis, and without charge, single-night, temporary lodging, with or without meals, for people with no ordinary or regular home or residence address, such as cold night shelter. Temporary shelters shall operate no more than a total of 30 days per year, a year being the period from July 1 through June 30. A temporary overnight shelter shall only be used as an accessory use to a church or nonprofit agency that has been established for a period of at least 12 consecutive months and where specifically permitted in this chapter and shall meet the following requirements:

1)Any temporary overnight shelter for the homeless shall comply fully with the requirements of applicable state, county and township codes, ordinances and regulations; and

2)Any temporary overnight shelter for the homeless shall be contained within the structure of, and operated by, a not-for-profit corporation or charitable organization.

- I. **DWELLING, MOBILE/MANUFACTURED HOME** - A type of single-family

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<sup>6</sup> Editor's Note: See 42 U.S.C. § 12101 et seq.

detached dwelling that meets all of the following requirements: is transportable in a single piece or two substantial pieces designed to be joined into one integral unit capable of again being separated for transport; is designed for permanent occupancy; which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations; is constructed so that it may be used with or without a permanent foundation; and is not a recreation vehicle. This term shall only allow dwellings constructed to federal Manufactured Housing Construction Standards. The terms “mobile home” and “manufactured home” have the same meaning.

- J. **DWELLING, RESIDENTIAL CONVERSION** - The conversion of an existing residential building into two (2) or more dwelling units or a non-residential building into one or more dwelling units that may still contain the original non-residential use.
- K. **DWELLING, SINGLE-FAMILY DETACHED** – A detached building designed for and occupied exclusively by one family, except for a mobile/manufactured home, as defined herein.
- L. **DWELLING, TOWNHOUSE (INCLUDES ROWHOUSE)** - One dwelling unit that is attached to two or more dwelling units, and with each dwelling unit being completely separated from and attached to each other by un-pierced vertical fire-resistant walls. Each dwelling unit shall have its own outside access. Side yards shall be adjacent to each end unit.
- M. **DWELLING, TWIN DWELLING UNIT** - A structure with two dwelling units whereby one dwelling unit accommodating one family is attached to but completely separated by a horizontal unpierced fire-resistant wall to only one additional dwelling unit. Open yard areas shall be on all sides of the Duplex Dwelling Unit. The structure is generally on a single lot.

**DWELLING UNIT** – One or more rooms, including sleeping areas, a kitchen (or kitchenette) and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family, for living and sleeping purposes, and containing a minimum habitable floor areas as may be set forth in any building and/or housing Code in the Township. See also §044-090 concerning short-term rentals of housing.

**EASEMENT** - An easement is a right acquired from a landowner to use the land of another for a special purpose, including, but not limited to, access, conservation, stormwater, and utility. An easement holder has a real property interest that is usually created by a written instrument or confirmed by a Court order; it is usually permanent; an easement cannot be revoked and the ownership of an easement follows the ownership of the land to which it belongs.

**EMERGENCY SERVICE FACILITIES** - Facilities operated by public agencies including emergency service facilities, fire stations, other fire prevention and firefighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities.

**ENGINEER, PROFESSIONAL** - A person fully licensed as a professional engineer within the Commonwealth of Pennsylvania.

**ENGINEER, TOWNSHIP** - The Middle Smithfield Township Engineer or any consultant

designated by the Board of Supervisors to review a subdivision plan, land development plan and/or other applications that may come before the Township and perform the duties of engineer on behalf of the Township.

**ESSENTIAL SERVICES/UTILITIES** - Includes the provision of gas, electrical, communication, telephone, sewer, waste material, water, public safety and other similar services. The facilities required to provide such services shall consist of:

- A. Limited facilities including equipment such as poles, towers, wires, drains, sewers, pipes, conduits, cables, police call boxes, traffic signals, hydrants and other similar equipment which does not require enclosure within a building or which can be constructed within a public right-of-way. Such facilities shall not be considered a Conditional Use
- B. Major facilities including equipment which requires enclosure within a building or construction of its own site such as gas storage areas, recycling collection stations, solid waste substations, substations, telephone exchanges, wastewater treatment facilities and wastewater pumping stations, water wells, water storage and water treatment facilities. Such facilities shall be considered a Conditional Use, unless said use is specifically addressed elsewhere in this Chapter

**EXPLOSIVES** - Dynamite, gunpowder, fuse, blasting caps, electric blasting caps, detonators and other explosives. This shall not prohibit the storage of gunpowder and primers to be used for reloading of ammunition for personal use.

**EXTRACTIVE OPERATION, SAND & GRAVEL PIT, ASPHALT/CONCRETE PLANT** - A use involving on-site extraction of surface mineral products or natural resources. Extraction is limited to stone quarries, top soil borrow pits, sand and gravel operations as well as the manufacture of asphalt and concrete.

**FAMILY** - One or more individuals related by blood, marriage or adoption (including persons receiving formal foster care) or up to four unrelated individuals who maintain a common household and live within one dwelling unit. Family also includes unrelated persons residing within a licensed group home as defined herein. [The Township's intent is to comply with the Federal Fair Housing Act<sup>7</sup>, as amended from time to time.]

**FARM**- A lot or lots, of 2 or more acres, that is used primarily for the production of crops or other agricultural products and/or the raising of livestock or poultry, and which may include a dwelling unit and buildings to support the agricultural activities. This term may also include a tree farm, vineyard or orchard. See also definitions of "Agriculture, General" and "Agriculture, Intensive".

**FENCE/WALL** - A partition or man-made barrier constructed of wood, stone, metal or other materials, placed or arranged as a line of demarcation, raised to some height, dividing a piece of land into distinct portions or separating two contiguous parcels and intended for purposes of privacy, security and enclosure and which does not serve as a necessary retaining wall or building wall.

**FIREWORKS** - A combustible or explosive composition, substance or combination of substances, or article prepared for the purpose of producing a visible and/or an audible

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<sup>7</sup> Editor's Note: See 42 U.S.C. § 3601 et seq.

effect by combustion, explosion, deflagration or detonation.

**FITNESS CENTER** – See “Health Spa”.

**FLEA MARKET** – See “Open Air Business”.

**FLOODPLAIN (ONE-HUNDRED YEAR)** - A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse likely to occur once every one hundred years; and/or any area subject to the unusual and rapid accumulation of surface water from any source which is likely to occur once every 100 years. [100 Year Flood: A flood that, on the average has a 1% chance of occurring each year although the flood may occur in any year]. For the purposes of this Ordinance, the “one hundred year floodplain” shall be those areas identified as such on the latest version of the official Flood Insurance Rate Map (FIRM) and Study (herein referred to as the “Federal Floodplain Study”) for the Township as issued by the United States Federal Emergency Management Agency (FEMA) or other appropriate study found to be acceptable to the Township Engineer.

**FLOOR AREA** – See “Gross Floor Area”.

**FOOD CART** – a cart that is not motorized and that a vendor, standing outside of the frame of the cart, uses to prepare, sell or serve food or beverages for immediate human consumption.

**FOOD TRUCK** – a large wheeled vehicle from which food is sold for immediate human consumption that typically contains cooking facilities where the food is prepared.

**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.

**FRONT YARD SETBACK** – See “Setback, Front Yard”.

**FUEL STORAGE AND DISTRIBUTION** - A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.

**FUNERAL HOME** - A building devoted to the care, embalming, and holding of services for the dead, including the sale of funeral equipment as an accessory activity.

**GAMING/GAMBLING ESTABLISHMENT** - An establishment that includes any and all gaming uses, including, but not limited to, casinos, off-track betting establishments, and other similar activities, whether or not including a restaurant, night club, hotel, bar or similar use, in accordance with State law, but excluding state lottery programs, and betting under the Small Games of Chance provisions of Pennsylvania Law<sup>8</sup>.

**GARDEN** – The customary, permitted by right, accessory use of a portion of a lot for the production of agricultural crops, fruits, flowers, herbs or closely similar agricultural products, but does not include (1) the raising of livestock or poultry unless specifically allowed, and/or (2) “Agriculture, Intensive” or “Agriculture, General”.

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<sup>8</sup> Editor’s Note: See 10 P.S. § 311 et seq.

**GAS STATION** - A building or lot or part thereof selling gasoline or other equivalent fuel to motor vehicles at retail dispensed directly into vehicles from pumps, where no repairs are conducted, except work that may be conducted that is closely similar in character to the following: sale and installation of oil, lubricants, batteries and belts and similar accessories, and safety and emissions inspection, and sale of prepackaged propane. These may include a “convenience store”. A business that maintains an accessory use providing motor fuel only for use by vehicles operated by that business shall not, by itself, be considered to be a “Gas Station.”

**GLARE** - The sensation produced by the luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted which causes annoyance, discomfort, or loss of visual

**GOLF COURSE** – A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, driving range, and shelters as accessory uses.

**GOVERNING BODY** - The Board of Supervisors of Middle Smithfield Township.

**GRADE** - The average level of the finished surface of the ground adjacent to a sign and/or structure or adjacent to the exterior wall of the building. The slope expressed in a percent which indicates the rate of change of elevation in feet per hundred feet.

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

**GRAVEL PIT** – See “Extractive Operations, Sand and Gravel Pit”.

**GROSS FLOOR AREA** - The total gross horizontal area on all floors as measured to the outside surfaces of the exterior walls, excluding crawl spaces, garages, carports, attics without floors, open porches, balconies and terraces.

**GUYED TOWER** - A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

**HEALTH CARE CLINIC** - A building or a portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only. See “Medical Facilities” use regulations<sup>9</sup>.

**HEALTH SPA** - Any establishment or business commonly known as health clubs, health spa, fitness studio providing health and nutritional education, fitness center, physical awareness, massage services, not including adult massage services, manicures, pedicures and other related services.

**HEDGE** - A barrier or boundary formed by a dense row of shrubs or low trees.

**HEIGHT** – See “Building Height”.

**HEIGHT LIMIT** - A vertical distance fixed in certain districts contained herein and measured from the average ground level at the base of the structure.

**HELIPAD** - A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair,

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<sup>9</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.



fueling or storage of helicopters.

**HELIPORT** - Any landing area used for the take off and landing of helicopters, including all necessary passenger and cargo facilities, fueling, maintenance, repair, storage and emergency services facilities. See also “Helipad”.

**HOME-BASED BUSINESS/HOME OCCUPATION** – There are two types of Home-Based Business:

A. **LOW-IMPACT HOME BASED BUSINESS** – a business that meets the following requirements:

- 1) The use shall not customarily attract customer, patient or client vehicular traffic to the site for business persons, except for an allowed type of accessory child day care use;
- 2) The use shall not involve service to the site by tractor-trailer trucks; and
- 3) The use shall not involve more than one truck or bus that customarily operates from the property or is stored on the property for home-based business purposes.

B. **NO-IMPACT HOME-BASED BUSINESS** - 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. The business or commercial activity must satisfy the following requirements, in addition to the requirements for a Low-Impact Home-Based Business:

- 1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- 2) The business shall employ no employees other than family members residing in the dwelling.
- 3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- 4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- 5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- 6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- 7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable living area.
- 8) The business may not involve any illegal activity.

**HOMELESS SHELTER, PERMANENT** – See “Dwelling, Homeless Shelter,

Permanent”.

**HOMELESS SHELTER, TEMPORARY** – See “Dwelling, Homeless Shelter, Temporary”.

**HOME OCCUPATION** - See “Home-Based Business/Home Occupation”.

**HOMEOWNER’S ASSOCIATION** - An unincorporated association or corporation whose membership consists of the lot owners of a residential development. A homeowner’s association shall also include a condominium unit owner’s association. All such associations shall comply with the requirements for unit owners’ associations contained in the Uniform Planned Community Act<sup>10</sup> and/or the Pennsylvania Uniform Condominium Act<sup>11</sup>, as amended from time to time.

**HOSPITAL** - An institution licensed as a Hospital by the state department of health, providing primary health services and medical or surgical care including inpatient care to persons suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities. See “Medical Facilities” use regulations.<sup>12</sup>

**HOSPITAL COMPLEX** - One or more buildings, one of which must be a hospital. A hospital complex may also include a cafeteria or restaurant, medically related heliports, nursing homes, extended care clinics, physical therapy/employee exercise facilities, employee housing, temporary inpatient/patient family housing, and shops for medical equipment, pharmaceutical supplies, gifts, books, magazines, toiletries, flowers, candy or similar items, provided such uses are primarily for the benefit of the patients, staff, and visitors, and are located so as not to normally to attract other retail customers. A hospital complex may also include, in the same building as the hospital or in separate buildings, other health care and health-care-related services, which may include but shall not be limited to the following: health care and child care centers, optical facilities, and medical office buildings. See “Medical Facilities” use regulations.<sup>13</sup>

**HOTEL/MOTEL/INN** - A building in which lodging, with or without meals, is provided and offered to the public for compensation, and which is open to transient guests, usually with access to units primarily from interior lobbies, courts or halls, and is not a rooming or boarding house.

**IMPERVIOUS SURFACE** - Any hard-surfaced generally man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, paved recreation areas, brick, paving block, plastic or other similar material which does not readily absorb water and that has a runoff coefficient of 0.85 or greater.

**IMPERVIOUS SURFACE COVERAGE** - The percentage of the area of a lot that is covered by impervious surface.

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<sup>10</sup> Editor’s Note: See 68 Pa.C.S.A. §5101 et seq.

<sup>11</sup> Editor’s Note: See 68 Pa.C.S.A. §3101 et seq.

<sup>12</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

<sup>13</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

**INN** – See “Hotel/Motel/Inn”.

**INTER GOVERNMENTAL COOPERATION AGREEMENT** - An agreement adopted by ordinance or resolution by two or more local governments pursuant to the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S.A. Section 2301, et seq., that authorizes shared services, coordinated development policies under the MPC, or other cooperative programs.

**JUNK** - Any discarded material or article including, but not limited to, scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, glass, containers, and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

**JUNK VEHICLE** - Includes any vehicle or trailer, for which commercial gain is not the primary objective, and that meets any of the following conditions:

- A. 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;
- B. Cannot be towed, such as a trailer designed to be towed;
- C. Has been demolished beyond repair;
- D. Has been separated from its axles, engine, body or chassis; and/or
- E. Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle; and/or
- F. Is unregistered and uninsured.

**JUNKYARD** - Land or structure used in whole or in part for the collection, storage, dismantling, processing and/or sale of junk.

**KENNEL, PRIVATE, NON-STATE LICENSED** - The keeping, breeding, raising, showing, or training of six or more dogs, cats or other household pets over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective. Kennels covered by this definition must be constructed and operated in accordance with the “Canine Health Board Standards for Commercial Kennels”, as established by the Commonwealth, as may be amended from time to time.

**KENNEL, STATE-LICENSED** – Any facility where 26 or more dogs or similar domestic animals are kept or transferred in a calendar year and which requires a kennel license, all as defined by PA Act 119 of 2008<sup>14</sup>, as may be amended from time to time. Kennel types, as defined by PA Act 119 of 2008, include private kennels, pet shop kennels, dealer kennels, rescue network kennels, research kennels, boarding kennels, non-profit kennels and commercial kennels, all as defined by PA Act 119 of 2008, as may be amended from time to time.

**LAND DEVELOPMENT** – The definition in the SALDO shall apply.

- A. Includes any of the following activities:

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<sup>14</sup> Editor’s Note: See 3 P.S. § 459-101 et seq.

- 1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
    - a. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure.
    - b. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
    - c. A subdivision of land.
  - 2) Note – The above definition shall include but is not limited to the following:
    - a. A planned residential development (PRD).
    - b. A cluster housing development.
    - c. A manufactured/mobile home park.
    - d. A campground.
    - e. A townhouse complex.
    - f. A shopping center.
    - g. An industrial park.
    - h. A business center development.
- B. Development in accordance with the following is not considered a land development:
- 1) The conversion of a single-family detached dwelling or two-family attached dwelling into not more than three residential units.
  - 2) The addition to an existing commercial building or the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; provided that the addition or accessory building does not:
    - a. Exceed 1,000 square feet in size;
    - b. Exceed one story in height;
    - c. Cause change in traffic patterns;
    - d. Trigger the application of additional parking requirements; or
    - e. Increase sewer flow or water demand.”
- C. Development in accordance with § 503.(1.1) of the MPC, as amended from time to time.

**LANDFILL, SANITARY** - An engineered burial facility for the disposal of solid waste which is so located, designed, constructed, and operated, in accordance with all state and federal regulations, to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

**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.

**LANDSCAPED BUFFER** - See “Buffer”.

**LANDSCAPE WASTE COMPOSTING FACILITY** – See “Resource Recovery Facility”

**LANDSCAPING** - The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements, screening and cooling of the ground surface.

**LIBRARY** - A public, nonprofit facility in which literary, musical, artistic, or reference materials, such as but not limited, to books, manuscripts, computers, recordings or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

**LIFE CARE FACILITY** - A planned development designed for the long-term care of elderly and/or disabled persons, which may include congregate residences, and/or full health and continuing care nursing home facilities. A Life Care Facility may also include accessory uses such as a community center, personal service shops, recreation areas and common open spaces, provided that such facilities shall only serve residents, employees and guests and are not open to the public. A Life Care Facility may also include a “personal care center” and “assisted living facility” in addition to a nursing home. Life Care Facilities do not include group homes.

**LITTER** - See “Junk”.

**LIVESTOCK** - Generally accepted outdoor farm animals kept either in open fields or structures for the purpose of providing food, clothing, breeding and production, or work, including but not limited to oxen, cows, horses, mules and donkeys, sheep, pigs, hogs, goats, llamas, alpacas and fowl.

**LIVESTOCK, KEEPING OF** The raising of farm animals either in open fields and/or structures for the purpose of providing food, clothing, breeding and production, or work, including but not limited to oxen, cows, horses, mules and donkeys, sheep, pigs, hogs, goats, llamas, alpacas and fowl. See “Agriculture, General” use regulations in this Chapter.<sup>15</sup>

**LOADING, OFF-STREET** - An unobstructed area, at least 12 feet in width and 40 feet in length and having a vertical clearance of at least 14 feet, provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials and merchandise.

**LOGISTICS CENTER** – A building or group of buildings on the same lot used for:

- A. the receipt and unloading of goods, products, and materials;
- B. the temporary indoor storage of those items; and
- C. the loading and transporting of those items to another location or end-user customer.

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<sup>15</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

A Logistics Center shall include the following terms as well as similarly implied terms.

DISTRIBUTION/FULFILLMENT/SHIPPING/PROCESSING  
CENTER,

HANDLING/STOREHOUSE/WAREHOUSE FACILITY,

FREIGHT/LOGISTICS/SUPPLY CHAIN/LAST-MILE  
TRANSPORT HUB,

ON-DEMAND WAREHOUSES,

DARK STORES (MICRO-FULFILLMENT CENTERS)

and

FREIGHT/TRUCK TERMINAL.

Logistics Centers shall be classified as a small logistics center or a large logistics center.

**SMALL LOGISTICS CENTER** - A Logistics Center use that contains less than or equal to 25,000 square feet of gross building floor area per lot.

**LARGE LOGISTICS CENTER** - A Logistics Center use that contains more than 25,000 square feet of gross building floor area per lot.

**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, MINIMUM** - The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street or legal right-of-way and no area which is to be part of existing or future easements shall be deemed a portion of any lot area. Note: in some cases, provisions of this Chapter require that density be regulated based upon the "Adjusted Tract Area."

**LOT, CORNER** - A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect with the street lines at an angle of less than 135 degrees.

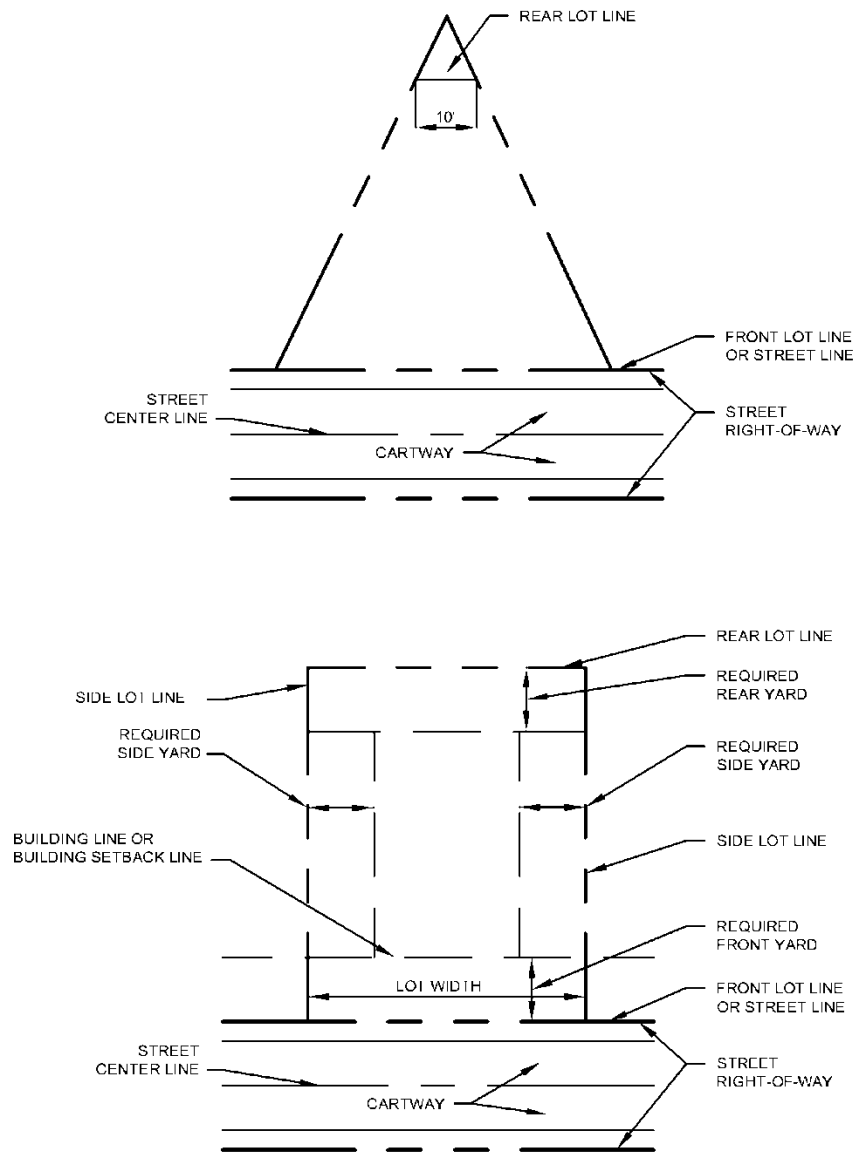
**LOT, DEPTH** - The mean average horizontal distance between the front and the rear lot lines.

**LOT, THROUGH** - An interior lot having frontage on two parallel or approximately parallel streets.

**LOT LINE** - A property boundary line. Where a lot abuts a street, the lot line shall be

deemed to be the same as the street line and shall not be the center line of the street or any other line within the street even though such may be the property boundary line for the purposes of setback requirements and minimum lot area calculations.

- A. **LOT LINE, FRONT** - A lot line separating the lot from the existing or proposed street right-of-way; every lot shall include at least one front lot line, one rear lot line and one side lot line.
- B. **LOT LINE, REAR** - Any lot line which is parallel to or within forty-five (45) degrees of being parallel to the street line, except for a lot line that is itself a right-of-way line, and except that in the case of a corner lot, the lot line opposite the right-of-way line which the front of the principal building faces shall be considered the rear lot line. In the case of a lot having no street frontage or a lot of an odd shape, only the one lot line furthest from any street shall be considered a rear lot line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten (10) feet long, lying within the lot and parallel to the street line. Every lot shall have a rear lot line.
- C. **LOT LINE, SIDE** - Any lot line other than a front or rear lot line.



## LOT LINES

N.T.S.

**LOT WIDTH** - The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. For corner lots, the lot width shall be measured along that street frontage at the required front yard setback.



**MANUFACTURED HOME PARK** - A contiguous parcel of land which has been designed or developed for, or used for, the placement of two or more manufactured homes and is owned by an individual, firm, trust, partnership, public or private association or corporation.

**MANUFACTURING** - The mechanical or chemical transformation of materials or substances into new products, including the blending of materials, such as lubricating oils, plastics, resins, or liquors.

**MANUFACTURING, LIGHT** - An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial process of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few negative external effects across property lines and which does not involve bulk use or processing of materials classified as toxic or hazardous to humans under federal or state regulations. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials.

**MEDICAL FACILITIES** - The term includes Health Care Clinics, Hospitals, Hospital Complexes, Medical Offices, and Surgery Centers as may be defined herein.

**MEDICAL MARIJUANA DISPENSARY** - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the State Department of Health to dispense medical marijuana.

**MEDICAL MARIJUANA GROWER/PROCESSOR** - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the State Department of Health to grow and process medical marijuana, and to conduct wholesale sales to State-approved entities.

**MEDICAL WASTE FACILITY** - A facility used to store and/or repack medical waste for transportation and ultimate disposal. See “Resource Recovery Facility” use regulations.<sup>16</sup>

**MOBILE/MANUFACTURED HOME LOT** - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection and use of a mobile home thereon.

**MOBILE HOME PARK** - See “Manufactured Home Park”.

**MOBILE/MANUFACTURED HOME** - See “Dwelling, Mobile/Manufactured Home”.

**MONOPOLE TOWER** - A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

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<sup>16</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

**MOTEL** – See “Hotel/Motel/Inn”.

**MOVIE THEATER** - See “Theater”.

**MUNICIPALITIES PLANNING CODE** - For the purposes of this Ordinance, the Pennsylvania Municipalities Planning Code, enacted as Act 247 of 1968, as amended.<sup>17</sup> This definition is intended to include the current code and any future amendments and shall be referred to hereafter as the “MPC”.

**MPC** – See “Municipalities Planning Code”

**MUNICIPALITY OR TOWNSHIP** - Middle Smithfield Township, unless the context clearly indicates an adjacent municipality.

**MUNICIPAL SERVICE FACILITY** - Activities and structures designed to generally provide services typically rendered by municipal governments, such as, but not limited to, road maintenance, police protection, planning, zoning, and subdivision related review services.

**MUSEUM** - A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use. See “Library or Museum” use regulations.<sup>18</sup>

**NIGHTCLUB/BAR/TAVERN** - A commercial establishment or club dispensing alcoholic beverages for consumption on the premises as well as food and in which dancing and musical entertainment may be permitted. State regulations governing alcoholic beverages shall also be incorporated into this definition by reference, as they may be amended from time to time.

**NONCONFORMANCE** - A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district in which the lot, structure, building, sign, development, or use is located.

**NONCONFORMANCE, CERTIFICATE OF** – A written statement signed by the Zoning Officer that states that a property has certain rights as a nonconforming use, lot or structure. See §082-020.

**NONCONFORMING LOT** - A lot, the area or dimension of which was lawful prior to the adoption or amendment of a 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.

**NONCONFORMING STRUCTURE** - A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully

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<sup>17</sup> Editor’s Note: See 53 P.S. § 10101 et seq.

<sup>18</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

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

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (Non-Tower WCF)** - WCF that are collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.

**NUISANCE** - Any public nuisance in law or in equity; including but not limited to, whatever is dangerous to human life or is detrimental to health and safety; interference with the reasonable use and enjoyment of property by a neighboring landowner of ordinary sensitivities.

**NURSERY** - Any land used to raise trees, shrubs, flowers, vines and other plants for sale or transplanting.

**NURSERY, GARDEN CENTER** - The retail and/or wholesale handling of any article, substance or commodity related to the planting, maintenance, or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals or other nursery goods and related products in small quantities to the consumer. See “Nursery” use regulations.<sup>19</sup>

**NURSING HOME** - A home licensed by the state for aged or chronically or incurably ill persons in which five or more such persons not of immediate family are provided with food, shelter and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**OFFICE** - A building or portion thereof that provides space to conduct business, service and professional services, such as insurance agencies, title insurance companies, real estate offices, post offices, but not including bulk mail centers.

**OFFICE PARK** - See “Business Park”.

**OFFICES, MEDICAL** - A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises. See “Medical Facilities” use regulations.

**ON-LOT SEWER SYSTEM** - See “Sewage Facilities System”.

**OPEN AIR BUSINESS** - Retail stores operated substantially in the open air, including but not limited to, flea markets, boats, or home equipment sales, repair or rental services. Outdoor display area and sale, including but not limited to, sheds, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools, farm implements and/or

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<sup>19</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

commercial construction equipment.

**OPEN SPACE** - Any parcel or area of land or water essentially unimproved and set aside, *dedicated*, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces. See also Common Open Space.

**OUTDOOR RECREATION FACILITY** - An outdoor recreation facility includes, but is not limited to, tennis courts, baseball, field hockey and soccer fields, batting cages, swimming pool, skating rink, miniature golf course, driving range not affiliated with a golf course. See “Recreational Facility”.

**OUTDOOR STORAGE** - Areas set aside outside of a building for the storage or display of material and merchandise for commercial, sales and/or industrial businesses.

**OWNER** - Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the Monroe County Recorder of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.

**PARAPET** - That portion of a wall which extends above the roof line and is not structural in nature.

**PARCEL** - Any legally described area of land, piece of land or property designated by the owner or developer as land to be used or developed as a unit, or that has been developed as a unit.

**PARK** - A noncommercial, not-for-profit facility designed to serve the recreation needs of the residents of the community.

**PARK-AND-RIDE FACILITY** - An off-street parking lot or structure designed or intended for parking automobiles primarily on a daily basis, the occupants of which transfer to carpools, vanpools, buspools, or mass transit to continue their trips, including accessory structures such as but not limited to passenger shelters. Fees for parking may or may not be charged. See “Vehicle Parking Lot or Garage” use regulations.<sup>20</sup>

**PARTY WALL** - A wall common to but dividing contiguous buildings; such a wall contains no openings and extends from its footing below the finished ground grade to the height of the exterior surface of the roof.

**PATIO** - A level surfaced area directly adjacent to a principal building.

**PAVED** - Ground covered with stone, brick, concrete, asphalt, gravel, or other substantial matter making a firm, smooth, and level surface.

**PEDDLING** - Selling, offering for sale or soliciting orders for goods or services or distributing, disseminating, or gathering information by written or spoken word upon the streets, sidewalks, or alleys of the Township. A Temporary Use Permit is required to

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<sup>20</sup> Editor’s Note: The Table of Use Regulations is included at the end of this chapter.

peddle.

**PENNDOT (aka PennDOT)** - Refers to the Pennsylvania Department of Transportation.

**PERMIT** - A document issued by an authorized Township official, officer, or employee allowing a person to begin an activity regulated by the Township under its local ordinances or other federal or state law.

A. **PERMIT, BUILDING** - A permit issued by the Township Building Codes Official under the provisions of the current Construction Codes in effect in Middle Smithfield Township. Such permit typically approves of the proposed method of construction or alteration of a structure. Such a permit shall not be confused with a zoning permit or with an occupancy permit as required under the terms of this Ordinance.

B. **PERMIT, CERTIFICATE OF COMPLIANCE** - A permit that is issued that signifies that a particular zoning or building permit complies with applicable sections of this Ordinance as approved.

C. **PERMIT, CERTIFICATE OF OCCUPANCY** - A permit/certificate issued by the Township Building Codes Official upon completion of the construction of a structure or change in use of structure or parcel of land indicating that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the occupancy permit.

D. **PERMIT, ZONING** - A permit issued by the Township Zoning Officer authorizing or allowing a person to begin an activity or use as provided for in this Ordinance.

**PERSONAL CARE HOME** – A use involving housing, care and supervision of elderly persons and persons with disabilities and which is licensed by the Commonwealth of Pennsylvania as a Personal Care Home.

**PETS, KEEPING OF** - See “Animal, Domestic” and “Animal, Exotic”.

**PLANNED RESIDENTIAL DEVELOPMENT (“PRD”)** - an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance. The Township’s current Zoning Ordinance does not contain provisions for the creation of a new PRD under Article VII of the MPC.

**PLANNING COMMISSION, TOWNSHIP** - Refers to the Middle Smithfield Township Planning Commission.

**PLAT** - The map or plan of a subdivision or land development, whether preliminary or final.

**PLAY AREA** - An area designed and constructed for outdoor active recreation including, but not limited to, playground equipment such as slides, swings and climbing apparatus.

**PLOT** - Land occupied or to be occupied by a building or use, and its accessory buildings and accessory uses, together with such yards and open spaces as are required.

**POULTRY** - See “Animal, Poultry”.

**Principal Solar Energy System:** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground or roof mounted solar collector devices and/or solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

**PRINCIPAL STRUCTURE** - The structure or any addition thereto in which the principal use of a lot is conducted.

**PRINCIPAL USE** - The dominant use of any and all principal and accessory structures on a lot. If there is a residential dwelling and a commercial operation on the same lot but in separate structures, then each shall be considered a principal use/structure.

**PRIVATE CLUB** - A building to house a social membership organization that is not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, restaurant, café or other commercial enterprise open to the general public (e.g. American Legion, VFW, Moose, and Elks).

**PROPERTY LINE** - A recorded boundary of a plot or deed.

**PROPERTY OWNER** - See “Owner”.

**PUBLIC HEARING** - A formal meeting held pursuant to public notice that is intended to inform and obtain public comment, prior to taking action in accordance with the MPC.

**PUBLIC NOTICE** - Notice required by the MPC, as amended from time to time. (Note: At the time of adoption of this Chapter, notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.)

**QUARRY** - See “Extractive Operation, Sand and Gravel Pit”.

**RACE TRACK** - A measured course where animals, vehicles and/or machines may be entered in competition against one another or against time, including a course used for training for such purposes.

**REAR YARD SETBACK** - See “Setback, Rear Yard”.

**RECREATION, ACTIVE** - Leisure time activities, usually of a more formal nature and performed with other individuals, often requiring equipment and taking place at prescribed places, site or fields. Such areas usually require physical alteration to the area before they can occur and are intensively used, such as playgrounds, ball courts and swimming pools.

**RECREATIONAL FACILITY** - Facility designed for outdoor/indoor recreation owned and operated by private and/or public entities.

**RECREATIONAL VEHICLE** - A vehicle which is designed for recreational use, regardless of size, which is not designed to be used as a permanent dwelling and which is

self-propelled or is designed to be towed by a light-duty vehicle. This term includes campers, travel trailers, motor homes and vehicles of similar nature.

**RECREATION, PASSIVE** - Leisure time activities, usually of an informal nature, such as hiking and picnicking, and not including athletic competition.

**RECYCLING COLLECTION CENTER** - A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public. Collection centers include: reverse vending machines occupying more than 75 square feet, a mobile recycling unit, kiosk-type units that may include permanent structures and unattended containers placed for the donation of recyclable materials.

**RESORT COMPLEX/COMMERCIAL RESORT DEVELOPMENT** - A property of 10 acres or more on which are located multiple facilities offering a combination of eating, lodging, recreational and/or commercial enterprises.

**RESOURCE RECOVERY FACILITY** - Facility designed and operated to collect, separate, process and recycle waste material for reuse.

**RESTAURANT** - A commercial establishment in which the principal use is the preparation and sale of food and beverages and may also include an outdoor dining area.

- A. **RESTAURANT, DRIVE-IN** - A building and adjoining parking area used for the purpose of furnishing food, soft drinks, ice cream, and similar confections to the public normally for consumption outside the confines of the principal permitted building, or in vehicles parked upon the premises, regardless of whether or not, in addition hereto, seats or other accommodations are provided inside for the patrons. Services are offered principally while patrons remain in their vehicles.
- B. **RESTAURANT, OUTDOOR DINING AREA** - A porch, patio, deck or other area of land used for seated eating or drinking which is adjacent to but not within the interior building walls of a restaurant. No portion of an outside dining area shall be used for any purpose other than dining or drinking and circulation therein.

**RETAIL SALES ESTABLISHMENT, SEASONAL** - See "Use, Temporary".

**RETAINING WALL** - A wall or similar structural device used at a grade change to hold the soil on the up-hill side from slumping, sliding, or falling.

**RIDING ACADEMY** - An establishment where horses are kept, bred, trained and/or exercised and where equestrian instruction and equestrian competition may be offered, including but not limited to polo clubs, public show rings, and rodeos.

**ROOMING HOUSE, OR LODGING HOUSE** - See "Dwelling, Boarding House".

**SALDO** – The Middle Smithfield Township Subdivision and Land Development Ordinance, as amended.

**SALVAGE** - See "Junk."

**SALVAGE YARD** - See "Junk yard."

**SAND PIT** - See "Extractive Operations, Sand and Gravel Pit".

**SANITARY SEWER** - A sewer that carries sewage and excludes storm water, surface water and groundwater.

**SCHOOL** - An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

**SCREEN, LANDSCAPE** - See "Buffer."

**SENIOR ACTIVE ADULT DEVELOPMENT** - A Senior Active Adult Development is a residential community for active adults that meets the following requirements: comprised of one or more dwelling unit types; provides particular features and facilities to serve specifically the needs and interests of the residents; and no more than four persons occupy a dwelling on a permanent basis, at least one of whom shall be 55 years of age or older. No persons under the age of 19 shall occupy a dwelling for more than three months in a calendar year.

**SERVICE BUSINESS** – An establishment intended to provide services to individuals or other businesses such as, but not limited to, advertising, copying and printing, office supplies, travel, equipment rental, building maintenance, amusement arcade and other such services.

**SETBACK** - The minimum distance measured horizontally and at 90° (perpendicular) from the edge of the right-of-way of the road or a property line to the outermost projection of a building or appurtenance to a structure permanently fixed on a building lot or real estate property. With respect to roads, highways or other public or private ways with undeterminable right-of-way, such setback shall be measured coincident with the line marking the outer portion of the traveled way or other outer portion of the berm, whichever shall provide the maximum width for street purposes. A building and/or structure should not extend into the minimum yard setbacks unless otherwise expressly permitted in this Chapter.

- A. **SETBACK, BUILDING LINE** -The minimum distance as established herein from the front, side and/or rear lot line to the point where improvements may be constructed on any given lot pursuant to the restrictions set forth herein.
- B. **SETBACK, FRONT YARD** - A line running parallel to the front lot line and/or street right-of-way line as required by this chapter; such line shall extend the full width of the lot from side lot line to side lot line.
- C. **SETBACK, SIDE YARD** - A line which establishes the minimum setback for the closest portion of the subject structure and which is measured from along the entire length of the side lot line and which extends from the front setback line to the rear setback line.
- D. **SETBACK, REAR YARD** - A line extending the full width of the lot and which is measured from along the rear line and which establishes the minimum setback for the subject structure and which stretches between the side lot lines parallel to the rear lot line.

**SEWAGE** - A substance that contains the waste products or excrement or other discharge



from the bodies of human beings or animals; a substance harmful to the public health, to animal or aquatic life or to the use of water for domestic water supply or for recreation; or a substance which constitutes pollution under The Clean Streams Law.<sup>21</sup>

**SEWAGE FACILITIES SYSTEM** - A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

- A. **SEWAGE FACILITIES SYSTEM, CENTRALIZED** - A public utility system or other multi-dwelling sewage disposal treatment system designed to collect, centrally treat and dispose of sewage from users in compliance with regulations of the appropriate governmental agency, local, state or federal, whichever may be more stringent. A permit shall be obtained from the appropriate governmental agency for a centralized sewage disposal system prior to the start of its construction.
- B. **SEWAGE FACILITIES SYSTEM, INDIVIDUAL** - A system of piping, tanks or other facilities serving serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into the waters of this Commonwealth or by means of conveyance to another site for final disposal.
- C. **SEWAGE FACILITIES SYSTEM, ON-LOT** - An on-lot individual system which uses a system of piping, tanks or other facilities for collecting, treating or disposing of sewage into a soil absorption area or spray field or by retention in a retaining bank.

**SEWAGE TREATMENT PLANT** - Any facility designed for the treatment of sewage that serves in excess of two structures or dwelling units.

**SEWER** - A pipe located in a public right-of-way or easement which transports sewage. The term “sewer”, as used herein, includes manholes, connections, and all other appurtenances.

**SEWERAGE SERVICE, PUBLIC** - Public sewerage service that is owned and operated by the Township or a Township authorized municipal authority and is a DEP -approved sewerage system.

**SEWER CONNECTION** - The connection consisting of all pipes, fittings and appurtenances, from the drain outlet of a dwelling or building to the lateral of the sewer.

**SEWER, LATERAL SANITARY** - That portion of the sewer system extending from the sewer to the curb line, or if there is no curb line to the property line, or if no such lateral shall be provided, then sanitary sewer lateral shall mean that portion of a sewer which is provided

**SHED** - See “Accessory Structure”.

**SHOOTING RANGE** - An area or structure specially designed for the safe discharge and use of rifles, shotguns, pistols, bows, crossbows, skeet, trap, black powder, or any similar firearm.

**SHOPPING CENTER** - A group of commercial establishments planned, constructed, and

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<sup>21</sup> Editor’s Note: See 35 P.S. § 691.1 et seq.

managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations, and protection from the elements.

**SHORT-TERM RENTAL** – Any dwelling unit utilized as a single-family residence rented for the purpose of overnight lodging for a period of 30 days or less, and which meets the definition of “hotel” for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2001-03, as amended.

**SIDEWALK SALE** - See “Special Event”.

**SIDE YARD SETBACK** – See “Setback, Side Yard”.

**SIGHT DISTANCE** - The required 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; this distance shall be compliant with PennDOT design criteria, as amended from time to time.

**SIGHT TRIANGLE** - An area alongside a public or private street, alley, avenue, boulevard, road, parkway, drive or other way, which area may include private property, required to be kept free of certain visual obstructions to the driver of a passenger vehicle when the view is unobstructed by traffic.

**SIGN** - See definitions in Article IX, §090-020 of this Chapter.

**SIGN SETBACKS** - The minimum distance required between any property line and any portion of a sign or sign structure and/or the required spacing between two signs.

**SIGN STRUCTURE** - The supports, uprights, bracing, or framework of any structure exhibiting a sign, be it single-faced, double-faced, V-type or otherwise. Any trailer, vehicle and/or any other device that is readily movable and designed or used primarily for the display of signs (rather than with signs as an accessory function) shall be construed to be a sign structure.

**SITE ALTERATIONS** - This term shall include one or more of the following activities:

- A. Filling of lakes, ponds, marshes or floodplains or alteration of watercourses.
- B. Clearing and grading of more than 5,000 sq. ft., other than selective thinning of existing vegetation or trees.

**SITE PLAN** - A plan drawn to scale, showing uses, site improvements and structures proposed for a parcel of land as required by this chapter and other regulations of the Township.

**SITE PLAN APPROVAL** - A process for the review and approval of a land development plan.

**SKI AREA** - An area developed for snow skiing, with trails and lifts, and including sales, rentals, and services of related equipment and accessories, instruction, and may include restaurant(s).

**SLAUGHTERHOUSE** - A facility for the slaughtering and processing of animals and the refining of their byproducts.

**SLOPE** - The degree of deviation of a surface from the horizontal plane, usually expressed in percent or degrees.

**SLOPE, STEEP** - Slopes of 15% percent gradient or steeper.

**SMALL WIRELESS COMMUNICATIONS FACILITY (Small WCF)** - WCF that meets the following criteria:

- A. The Wireless Support Structure on which Communications Antenna facilities are mounted that—
  - 1) is 50 feet or less in height, or
  - 2) is no more than 10 percent taller than other adjacent structures, or
  - 3) is not extended to a height of more than 50 feet or by more than 10 percent above its original height as a result of the collocation of new Communications Antenna facilities; and
- B. Each Communications Antenna associated with the deployment (excluding the Communications Ancillary Equipment) is no more than three cubic feet in volume; and
- C. All Communications Ancillary Equipment associated with the WCF (excluding Communications Antennas) is cumulatively no more than 28 cubic feet in volume; and
- D. The WCF does not require Communications Antenna structure registration under 47 CFR Part 17; and
- E. The WCF does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

**SOLID WASTE** - Any garbage, refuse, rubbish, or other discarded materials in solid or liquid form.

**SORORITY/FRATERNITY** - See “Dwelling, Dormitory”.

**SPECIAL EVENT** - A temporary use such as circuses, fairs, carnivals, festivals, bazaars, sidewalk sales, concerts, neighborhood fairs, and other types of special events that run for no longer than seven consecutive calendar days up to four times a year, are intended to or likely to attract substantial crowds, and are unlike the customary or usual activities generally associated with the property where the special event is to be located. There shall be at least a thirty (30) day period between such occurrences. A Parade is also considered a special event or temporary use. Temporary Uses are subject to the conditions set forth in Accessory Uses as outlined in Article IV of this Chapter.

**SPECIAL EXCEPTION** – See “Use, Special Exception”.

**STABLE** - Any structure or land used, designed, or arranged for the maintenance, feeding, housing and riding or rental of horses, mules, ponies, and/or donkeys either with or without a bridle path or riding area, but excluding structures or land used, designed, or arranged for the maintenance of horses or mules used exclusively for agricultural purposes. Use H13 Stable, Private shall mean a stable that is accessory to a single family detached dwelling.

**STACKING LANE** - A paved surface designed to accommodate a motor vehicle waiting for entry to any drive-in facility or auto-oriented use, which is located in such a way that a parking space or access to a parking space is not obstructed.

**STORE, LARGE RETAIL** - A singular retail or wholesale user who occupies more than 75,000 square feet of gross floor area, selling food, drugs, household merchandise, clothing and a variety of other retail goods. The store may, in some cases, include limited medical services, and has a regional sales market.

**STORE, RETAIL** - A singular retail or wholesale user who occupies less than 75,000 square feet of gross floor area, selling one or more of the following; food, drugs, household merchandise, clothing and/or a variety of other retail goods.

**STEALTH DESIGN** - Camouflaging methods applied to WCF and Communications Ancillary Equipment 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 Communications Antennas, building-mounted Communications Antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

**STREAM** - See “Watercourse”.

**STREET** - A public or private thoroughfare which provides the principal means of vehicular access to two or more lots. See the Middle Smithfield Township Subdivision and Land Development Ordinance,<sup>22</sup> as amended from time to time, for additional definitions and descriptions of the different types of streets.

**STRUCTURE** - Anything erected, built or constructed whether installed on, above or below the surface of a parcel of land and/or water. Any structure shall be subject to the principal or accessory setbacks of this chapter, as applicable, unless a specific setback is established for that particular type of structure or setbacks are noted on a previous Land Development and/or Subdivision Map. For the purposes of this Chapter, fences, utility poles, storm water facilities, wells, paving and septic systems shall not be considered structures.

- A. **STRUCTURE, NONCONFORMING LAWFUL** - A structure, or portion thereof, that no longer conforms to the site area, coverage, setback or other open space, height, or other regulations prescribing physical development standards for the district in which such structure is located but which legally existed prior to the adoption date of this Ordinance, or an amendment thereto, that render such structure or use nonconforming.
- B. **STRUCTURE, NONCONFORMING, ILLEGAL** - A structure that did not legally exist prior to the adoption of this Ordinance and does not conform to the current ordinance requirements for the district in which it is located.
- C. **STRUCTURE, TEMPORARY** - A structure that is required for a limited period of

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<sup>22</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

time as stated on the Zoning Permit. The use of the structure, such as, but not limited to, sales office or temporary residence shall dictate what accessory facilities must be provided with the Temporary Structure, such as, but not limited to, parking, access, and sanitary facilities. Once the permit expires for a temporary structure it must be removed from the site and the site returned to its original condition, at the applicant's expense.

**SUBDIVISION** – The definition in the SALDO shall apply.

**SUBDIVISION PLAN** - A plan or map meeting the requirements of SALDO, prepared by a professional engineer and/or land surveyor licensed in the Commonwealth of Pennsylvania, showing a proposed or approved subdivision of land

**SURGERY CENTER** - A medical facility that focuses on out-patient surgery and has limited facilities for over-night stays. See “Medical Facilities” use regulations.<sup>23</sup>

**TAVERN** – See “Night Club/Bar/Tavern”.

**THEATER** - A building or part of a building devoted to the showing of moving pictures or theatrical productions on a commercial basis, but not including an outdoor drive-in theater or adult movie theater.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (Tower-Based WCF)** - Any structure that is used for the primary purpose of supporting one or more communications antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and utility poles exceeding fifty (50) feet in height and the accompanying Communications Antenna and Communications Ancillary Equipment.

**TOWNHOUSE** - See “Dwelling, Townhouse”.

**TOWNSHIP** - The Township of Middle Smithfield, Monroe County, Pennsylvania.

**TRANSFER OF DEVELOPMENT RIGHTS (TDR)** - The attaching of development rights to specified lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

**TRANSPORTATION TERMINAL FOR INTER-CITY SHUTTLE SERVICE** - Facility designed for the parking of vehicles and transfer of persons to buses for transport to other destinations, generally for commuter use, in accordance with Article IV of this Chapter.

**TREATMENT CENTER** –

A. A dwelling unit/facility operated by a responsible individual, family or organization, other than a prison, with a program designed to provide a supportive living arrangement providing housing for three or more unrelated persons who require specialized housing, treatment and/or counseling due to:

- 1) criminal rehabilitation (e.g. criminal half-way house);
- 2) addiction to controlled substances and/or alcohol (e.g. alcohol

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<sup>23</sup> Editor's Note: The Table of Use Regulations is included at the end of this chapter.

treatment facility, drug treatment center); and/or

3) other types of mental illness or behavioral abnormalities (e.g. independent psychiatric institutions).

- B. A treatment center is not a group home under the Federal Fair Housing Act<sup>24</sup>, as amended.

**USE** - The purpose for which land or a building is arranged or intended or for which either land or a building may be occupied or maintained.

- A. **USE, CONDITIONAL** - Certain specified uses which are allowed or denied by the Board of Supervisors after recommendation by the Planning Commission pursuant to express standards and criteria set forth in this Ordinance and the MPC.
- B. **USE, PERMITTED** - Any use which does not require special action by the Zoning Hearing Board or by the Board of Supervisors before a zoning permit is granted by the Zoning Officer. A “permitted use” and a “use permitted by right” may be used interchangeably with the same intent.
- C. **USE, TEMPORARY** - A use established for a limited duration to be discontinued upon the expiration of the time period which may require a permit.
- D. **USE, SPECIAL EXCEPTION** - An approval granted to use land in a zoning district for a purpose other than that generally permitted outright in that district. The permission or special exception is granted by the Zoning Hearing Board in accordance with standards and criteria set forth in this Ordinance and the MPC, provided generally that the specific application of the use would not prove injurious to the public interest.

**VARIANCE** - The granting of specific permission by the Zoning Hearing Board to use, construct, expand or alter land and/or structures because compliance cannot be met with at least one specific requirement of this chapter. A variance shall only be granted within the limitations of the MPC as amended from time to time.

**VEHICLE PARKING LOT OR GARAGE** - A lot, building or portion thereof, other than an automobile sales lot, used for the storage or parking of six or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot or garage shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

**VEHICLE SALES** - A structure and/or outside area set aside for the sale of vehicles with or without accessory service facilities.

**VEHICLE SERVICE AND REPAIR FACILITY** - A building or lot or part thereof where repairs, improvements and installation of parts and accessories for motor vehicles are conducted that involves work that is more intense in character than work permitted under the definition of “Gas Station”. Vehicle Service and Repair Facility shall include, but not limited to, a use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding, or rebuilding of transmissions. Any use permitted as part of a “Gas Station” is also permitted as part of a “Vehicle Service and

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<sup>24</sup> Editor’s Note: See 42 U.S.C. § 3601 et seq.

Repair Facility.”

**VETERINARIAN OFFICE OR CLINIC** - An establishment offering veterinary services for all types of animals and which may include indoor and overnight boarding for animals.

**WATER CONNECTION** - The connection consisting of all pipes, fittings and appurtenances from the water main to the internal distribution system of the dwelling or nonresidential unit.

**WATERCOURSE** - A channel or conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**WATER SERVICE, CENTRAL** - Water supply service to a building and/or structure by a state-approved water supply system which includes an appropriate mechanism to ensure long-term professional operation and maintenance of the system.

**WATER SERVICE, ON-LOT** - Water supply service to a building and/or structure via an individual on-lot well.

**WATER SERVICE, PUBLIC** - Central water service by a system owned and/or operated by a municipality a municipal authority or the Public Utility.

**WATER SUPPLY SYSTEM, CENTRALIZED** - A public and/or private utility system or other centralized water supply system designed to supply and transmit water from a common source for two or more users in compliance with the Pennsylvania Department of Environmental Protection regulations, as amended. All appropriate permits shall be obtained from the appropriate local and/or state agencies for a centralized water supply system prior to start of construction and a copy shall be supplied to the Township prior to the start of construction.

**WATER SUPPLY SYSTEM, COMMUNITY** - A system designed to supply and transmit water from a common source for two or more users owned and operated by the users or by an association or group made up and/or controlled by the said users in compliance with the Pennsylvania Department of Environmental Protection regulations, as amended. All appropriate permits shall be obtained from all local and/or state agencies for a community water supply system and copies of such permits shall be furnished to Township prior to the start of construction.

**WETLANDS** - An area of land that meets the Federal or State regulatory definition of a “wetland,” whichever is more inclusive. Wetlands are generally inundated and saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions.

**WIND ENERGY SYSTEM** - Accessory devices and equipment designed to collect wind power and convert same into usable energy.

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

**WIRELESS SUPPORT STRUCTURE** - A pole, tower, base station, building, or other structure, whether or not it has an existing communications antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other

types of services). A wireless support structure may be temporary or permanent. A wireless support structure includes the following:

- A. Self-supporting lattice towers, guy towers, and monopoles.
- B. Utility poles, traffic light poles and streetlights.
- C. Building and other permanent structures.
- D. Any temporary tower constructed for a special event, provided that the tower will not be located on the premises for more than 30 days; that the height of the tower will not exceed 100 feet; and that the tower will be set back from all property lines at a distance that is equal to its height including all attached communications antenna facilities
- E. Any temporary communications tower that may be required in response to a natural disaster or another emergency event.

**WORSHIP, PLACE OF, AND RELATED USES** - The use of all or a portion of lands, building, structure or group of buildings or structures, as a place of worship, including accessory uses such as a convent, religious-related educational and/or day care center, monastery, or similar religious institution, including rectories, parsonages, and parish houses for an organization solely or primarily used as a religious institution when located on the same premise.

**YARD** - A yard is an open space unobstructed from the ground up to the sky except for permitted projections and plantings on the same lot on which a building is situated, extending along a lot line or street line and inward to the structure. As used herein, the size of a required yard (whether front, side or rear) shall be measured as the shortest distance between the structure and a lot line and/or street line.

A. **YARD, FRONT** - The area between the front lot line and the front yard setback.

1)The front yard shall be on a side that faces towards a public street whenever one public street abuts the lot.

2)Corner lots. For a corner lot, each yard that abuts a public street shall be considered a front yard and meet the requirements for minimum depth of a front yard.

B. **YARD, REAR** - The area between the rear lot line and the rear yard setback.

C. **YARD, SIDE** - The area between the side lot line and the side yard setback.

**YARD SALE** – An occasional customarily accessory use of a residential property to sell used household items to the public. This use is part of Use H2, which includes controls on the frequency of yard sales. Occasional sales of used items on the property of a place of worship or similar property by multiple personal shall be considered an accessory special event.

**ZONING DISTRICT** - A land area within which certain uniform regulations and requirements apply under the provisions of this Chapter.

**ZONING HEARING BOARD** - The Zoning Hearing Board of Middle Smithfield Township.

**ZONING MAP** - The map established by the Township governing body designating the



location and boundaries of the zoning districts established within the Township, as may be amended from time to time, and herein referred to as “Zoning Map”.

**ZONING OFFICER** - The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

**ZONING ORDINANCE** - The “Zoning Ordinance of Middle Smithfield Township”, as may be amended from time to time.

**ZONING PERMIT** - See “Permit, Zoning”.

## ARTICLE III: ZONING MAP AND ESTABLISHMENT OF DISTRICTS

### DIVISION 30: ZONING MAP

#### § 030-010. Zoning Map adopted.

Middle Smithfield Township is hereby divided into districts as shown on the zoning map, which shall be known as the “Middle Smithfield Township Zoning Map”, as amended, commonly referred to as the “Zoning Map”, together with all explanatory matters thereon. A true and correct copy of the Official Zoning Map is attached hereto and made a part hereof as Appendix “A”<sup>25</sup>. The Zoning Map is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments thereto.

#### § 030-020. Identification of Zoning Map.

The Zoning Map shall be identified by the signatures of the Board of Supervisors and attested to by the Township Secretary, and shall bear the adoption date of the Ordinance adopting the Zoning Map and the words "Middle Smithfield Township Zoning Map". The Zoning Map shall contain a block to identify all future changes to the map indicating the date thereof as well as the corresponding ordinance number. The Zoning Map shall be retained in the Township Building.

#### § 030-030. Changes to Zoning Map.

- A. If, in accordance with the provisions of this Chapter and the MPC, as amended, changes are made in district boundaries or other matters portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Board of Supervisors by ordinance.
- B. No change of any nature shall be made in the Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter, except to update base information such as revised lot lines and new streets that do not change zoning boundaries. All changes shall be noted by date with a brief description of the nature of the change.

#### § 030-040. Location of Zoning Map.

An official copy of the Zoning Map shall be located in the Township building and, with any attached amendment, shall be the final authority as to the current zoning status of land and water areas in the Township, regardless of unofficial copies which may have been made or published from time to time.

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<sup>25</sup> Editor’s Note: Appendix A, Middle Smithfield Township Zoning Map, is included at the end of this chapter.

**§ 030-050.     Replacement of Zoning Map.**

- A. In the event that the Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of changes and additions, the Township Supervisors may, by resolution, adopt a new Zoning Map, which shall supersede the prior Zoning Map. The new Zoning Map may correct drafting or other errors or omissions in the prior Zoning Map, but no such correction shall have the effect of amending the original Zoning Map or any subsequent amendment thereof. The new Zoning Map shall be identified by the signatures of the Township Supervisors, attested by the Township Secretary and bearing the following words: “This is to certify that this Zoning Map supersedes and replaces the Zoning Map adopted on \_\_\_\_\_, as part of Ordinance No. \_\_\_\_\_, Middle Smithfield Township, Monroe County, Pennsylvania, as amended”.
- B. Unless the prior Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

**DIVISION 31:     ESTABLISHMENT OF DISTRICTS**

**§ 031-010.     Designation of Districts.**

For the purpose of this Chapter, Middle Smithfield Township is hereby divided into the following zoning districts, with the following abbreviations:

CON   Conservation District  
RR     Rural Reserve District  
R1     Residential District  
R2     Residential District  
R3     Residential District  
PRD   Planned Residential Development District  
C1     Commercial District  
C2     Commercial District  
I       Commercial Industrial District

**§ 031-020.     Purpose of Districts.**

- A. The zoning districts shall be of the number, size, shape and location as shown on the Zoning Map.
- B. In addition to serving the overall purposes and objectives of this Chapter and the Comprehensive Plan, each zoning district is intended to serve the following purposes:
- 1) CON – Conservation District: To provide for the preservation and maintenance of areas with significant important natural features, such as wetlands, flood-prone lands, and steep-sloped areas; to protect the water quality and habitats along the Delaware River, lakes, and creeks and promote groundwater recharge; to recognize that many of these areas have limited road access; to recognize that most of these

areas are not near existing public water and sewage systems and to provide these areas as sending areas for the Transfer of Development Rights (TDR).

- 2) RR – Rural Reserve District: To provide for development with a low average intensity in areas that include significant important natural features, such as wetlands, flood-prone lands and steep-sloped areas; to protect the water quality and habitats along creeks and around lakes and promote groundwater recharge; to provide for single-family detached dwellings; to provide incentives and a certain amount of flexibility in lot layout so that development can be clustered on the most suitable portions of a tract of land in order to preserve natural resources while still avoiding overly intense development through the Senior Active Adult Development Option and/or the Conservation Development Option; to recognize that most of these areas are not near existing public water and sewage systems; and, to provide these areas as sending areas for the Transfer of Development Rights (TDR).
- 3) R1 – Residential District: To provide for low-density residential neighborhoods; to provide incentives and a certain amount of flexibility in lot layout so that development can be clustered on the most suitable portions of a tract of land in order to preserve natural resources while still avoiding overly intense development; to provide a mix of neighborhood scale services and to protect these areas from incompatible uses.
- 4) R2 – Residential District: To provide for medium-density residential neighborhoods that provide a mix of housing types; to provide a mix of neighborhood scale services; to protect these areas from incompatible uses; and to serve as a secondary receiving area for the Transfer of Development Rights (TDR).
- 5) R3 – Residential District: To provide for higher-density residential neighborhoods; to provide a mix of neighborhood scale services; to promote adaptive reuse and infill small-scale commercial development to enhance existing neighborhoods and to serve as a secondary receiving area for the Transfer of Development Rights (TDR).
- 6) C1 – Commercial District: To provide a commercial area with easy pedestrian access and visual impact; to provide for a variety of commercial uses along major highways where a variety of commercial uses are already present; to provide for a wider range of commercial uses than the C2 Commercial District, including uses that are more auto-related (such as car washes and gas stations); to carefully locate commercial areas and commercial driveways to maximize traffic safety and minimize congestion problems along roads; and, to serve as a primary receiving area for the Transfer of Development Rights (TDR).
- 7) C2 – Commercial District. To promote compact non-residential development; to provide for a variety of professional offices and commercial uses which are compatible with existing residential uses within the District and with surrounding

residential and non-residential uses; to carefully locate commercial areas and commercial driveways to maximize traffic safety and minimize congestion problems along roads; and to serve as a primary receiving area for the Transfer of Development Rights (TDR).

- 8) I – Commercial Industrial District. To provide for commercial development and certain types of industrial development in a manner that is compatible with nearby homes and the surrounding environment; to carefully control the types of industrial operations to avoid nuisances and environmental hazards; to encourage coordinated development, particularly with regard to traffic access; to recognize that Middle Smithfield Township is not suitable for large areas of industrial development due to the proximity of dwellings, lakes, streams, and creeks; and to advocate environmental sensitivity and reuse/reclamation of industrial land.
- 9) PRD – Planned Residential Development District. The PRD District is intended to recognize ongoing developments that were approved under preexisting PRD provisions of prior Township Zoning Ordinances; namely, Country Club of the Poconos at Big Ridge and Fairway Villas, all of which have plats recorded in the Monroe County Recorder of Deeds Office. PRDs are designed to provide opportunities for a mix of housing types with limited commercial development, and to require the permanent preservation of open space.

**§ 031-030. Overlay Districts.**

- A. Floodplain Overlay District. The floodplain overlay district is hereby created to be coterminous with the areas which are subject to the one hundred year flood, as identified in the most current Flood Insurance Study, the accompanying FIRM – Flood Insurance Rate Map issued for Middle Smithfield Township by the Federal Emergency Management Agency, as may be amended from time to time. The floodplain overlay district shall be governed by the regulations set forth herein.
- B. Resort Complex/Commercial Resort Overlay District. A Resort Complex/Commercial Resort is intended to provide opportunities for a mix of commercial, resort, residential and other compatible uses; to promote unified and coordinated development with interior traffic access; to promote development that does not create conflicts with neighboring zoning districts; and to promote the preservation of unique environmental features of the land. The rules and regulations governing the existing and new Resort Complex/Commercial Resort Development options are set forth in this Chapter, Article VI “Development Options”, Division 61 “Resort Complex/Commercial Resort Development Option”. Under the former Middle Smithfield Township Zoning Ordinance of 2004 “Resort District and Resort Commercial Districts”, the municipality issued “Formal Recognition” of the Ski Shawnee Resort Complex and the Fernwood Hotel and Resort Complex as Resort Complexes.

C. (Reserved)<sup>26</sup>

D. Senior Active Adult Development Option District. The rules and regulations governing Senior Active Adult Developments are set forth in this Chapter, Article VI “Development Options”, Division 62 “Senior Active Adult Development Option”.

E. Conservation Development Option District. The rules and regulations governing Conservation Development Option Districts are set forth in this Chapter, Article VI “Development Options”, Division 63 “Conservation Development Option”.

F. Airport Overlay District. The rules and regulations governing Airport Overlay Districts are set forth in this Chapter, Article VI “Development Options”, Division 64 “Airport Overlay Districts.”

**§ 031-040.     Application of District Regulations.**

A. The regulations set by this Chapter shall apply uniformly to each class or kind of structure or land except as otherwise provided for in this Chapter.

B. No structure shall hereafter be erected, used, constructed, reconstructed, structurally altered or occupied and no land shall hereafter be used, developed or occupied unless it is in conformity with the regulations herein specified for the use and district in which it is located.

C. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

**§ 031-050.     Interpretation of District Boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

A. District boundary lines are intended to follow or be parallel to the center line of street rights-of-way, streams and railroads and lot lines as they existed on a recorded deed or plan of record in the County Recorder of Deeds' office at the time of the adoption of this Chapter unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, such boundary shall be construed to follow such lot lines unless specifically shown otherwise.

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<sup>26</sup> Editor’s Note: Former Subsection C, Traditional Neighborhood Development (TND) Option District, was repealed 9-4-2012 by Ord. No. 188.

- C. The location of a district boundary on un-subdivided land, or where a district boundary divides a lot, shall be determined by the use of the scale appearing on the Zoning Map unless indicated otherwise by dimensions.
- D. Where a municipal boundary divides a lot, the minimum lot area shall be regulated by the municipality in which the principal use(s) are located unless otherwise provided by applicable case law. The land area within each municipality shall be regulated by the use regulations and other applicable regulations of each municipality.
- E. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or if uncertainty exists as to the true location of a district boundary line in a particular instance, the Zoning Officer shall request the Zoning Hearing Board to render its determination with respect thereto.

**§ 031-060.     Boundary Change or Annexation of District.**

Any territory which may hereafter become part of the Township through annexation or a boundary adjustment shall be classified as RR - Rural Reserve District of Middle Smithfield Township until said territory is classified otherwise as determined by the Board of Supervisors.

**§ 031-070.     Setbacks Across Municipal Boundaries.**

This Chapter is intended to continue the objective of compatible land uses across municipal boundaries and, therefore, requires additional setbacks and buffer yards when certain uses would abut an existing dwelling or a residential zoning district whether such abutting existing dwelling or principally residential zoning district is located in an abutting municipality or within Middle Smithfield Township.

## **ARTICLE IV: USE REGULATIONS WITHIN ZONING DISTRICTS**

### **DIVISION 40: PREEMPTIONS, EXEMPTIONS AND LIMITATIONS ON USE REGULATIONS**

#### **§ 040-010. Public Utilities.**

The MPC provides that zoning is not applicable to any existing or proposed building, or extension thereof, used, or to be used, by a public utility corporation, if upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. Where such authority is provided by State law, the PUC may issue a certificate of convenience and determine that zoning regulations shall not apply.

#### **§ 040-020. Agriculture.**

The MPC expressly recognizes the limited preemption of municipal zoning regulations of agriculture by the Act of May 20, 1993 (P.L. 12, No. 6) known as the Nutrient Management 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) known as [A]n Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances, the Right to Farm law, and other state and federal laws, all as amended from time to time. The MPC further provides that “zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic area where agriculture has traditionally been present unless the agricultural operation will have a direct adverse effect on the public health and safety.” The Agriculture, Communities and Rural Environment Initiative (ACRE) amending Title 3 (Agriculture) also provides additional limited preemptions from municipal zoning regulations. [Note: See 3 P.S. § 1717, 3 P.S. § 911(b), 3 P.S. § 951 et seq., 53 P.S. § 10603(b), 53 P.S. § 10603(h) and Act 38 of 2005, respectively]

#### **§ 040-030. Mineral Extraction.**

See Section 603(b) of the MPC, in addition to the regulations of this Chapter 200, Zoning, of the Middle Smithfield Township Code of Ordinances.

#### **§ 040-040. Forestry.**

Pursuant to the MPC, forestry activities are a permitted use by right in all zoning districts within the Municipality. [Note: See 53 P.S. § 10603(f).]

#### **§ 040-050. No-Impact Home-Based Business.**

Pursuant to the MPC, no-impact home-based businesses are permitted by right in all residential districts within the Township, except that such permission shall not supersede



any deed restriction, covenant and/or agreement restricting the use of land, nor any master deed, by-law, or other document applicable to a common interest ownership community. [Note: See 53 P.S. § 10603(l).]

**§ 040-060. Religious Institutions.**

It is the intention of the Township to regulate religious institutions in compliance with the federal Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”) [Note: See 42 U.S.C § 2000cc et seq.] which, in summary, provides that no township may impose or implement land use regulations in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless certain criteria is met; as well as the Pennsylvania Religious Freedom Protection Act (“RFPA”)<sup>27</sup> which, in summary, provides that no township shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination, and, pursuant to the MPC, the display of religious symbols on property being used for religious purposes may not be unduly restricted.

**§ 040 -070. Group Homes and Age-Restricted Housing.**

This Township, through zoning regulations, and procedures and practices, intends to make reasonable accommodations to afford any individual equal opportunity to use and enjoy a dwelling in compliance with the federal Fair Housing Act and the Pennsylvania Human Relations Act, as both may be amended from time to time. Both Acts exempt from this prohibition on discrimination “housing for older persons” as defined by the Acts. [Note: See Act No. 214, December 19, 2002, 71 P.S. § 2401 et seq.; Act of October 27, 1955, P.L. 74, as amended, 43 P.S. §§ 951 through 963; 42 U.S.C. § 3607(b)(1); and 43 P.S. § 955(h)(9).]

**§ 040-080. Gaming/Gambling Establishments.**

To the extent that a licensed gaming facility has been approved by the Pennsylvania Gaming Control Board, Act 71 (“Gaming Act”)<sup>28</sup>, approved July 5, 2004, and as amended from time to time, provides that the conduct of gaming, including the physical location of a licensed facility and, extending to racetracks and related facilities, shall not be prohibited or otherwise regulated by this Chapter 200.

**§ 040-090. Township and Municipal Authority Uses and Structures.**

The minimum lot area, minimum lot width and minimum street frontage requirements of this Chapter 200 shall not apply to uses and/or structure(s) owned by Middle Smithfield Township or by a municipal authority created by the Township for uses and/or structure(s) that are intended for storm water management, public recreation, governmental or public health and safety purposes.

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<sup>27</sup> Editor’s Note: See 71 P.S. § 2401 et seq.

<sup>28</sup> Editor’s Note: See 4 Pa.C.S.A. § 1101 et seq.

**DIVISION 41:        EXPLANATION OF USE DESIGNATIONS/REGULATIONS  
WITHIN ZONING DISTRICTS.**

**§ 041-010.     Designation of Use Regulations.**

For the purposes of this Chapter, the regulation of the use of land or the use of a structure within a specific zoning district situated in Middle Smithfield Township is divided into the following categories with the following abbreviations:

P	Permitted as a Use by Right
C	Permitted as a Conditional Use
SE	Permitted as a Use by Special Exception
N	Prohibited as a Use

**§ 041-020.     Explanation of Use Designations.**

- A. P - Permitted as a Use by Right. A use within a zoning district that is permitted as a use by right; a permitted use must comply with all the requirements of this Chapter.
- B. C - Allowed as a Conditional Use. This is a use that is allowed by the Board of Supervisors after recommendations by the Township Planning Commission and a public hearing, pursuant to express standards and criteria set forth in the Zoning Ordinance. In allowing 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 MPC and the Zoning Ordinance.
- C. SE - Allowed as a Use by Special Exception. This is a use allowed by the Township Zoning Hearing Board after a public hearing, pursuant to express standards and criteria set forth in the Zoning Ordinance. The Zoning Hearing 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 MPC and the Zoning Ordinance.
- D. N - Prohibited as a Use in a particular zoning district in Middle Smithfield Township. Any use of land, building or structure within the Township that is not preempted or exempt from Township regulation, and is not permitted as a use by right, a conditional use or as a special exception in a particular zoning district, is prohibited as a use in that specific zoning district.

**§ 041-030.     Uses Not Specifically Provided For.**

If a use is clearly not provided for in this Chapter, whether as a permitted use by right, or by conditional use or as a use by special exception within any zoning district within the Township, then the zoning officer(s) may make a determination as to whether the “Use Not Specifically Provided For” is similar to a use permitted by conditional use or similar to a

use permitted by special exception. Once this determination is made by the zoning officer, the applicant must satisfy certain conditions at a public hearing before the appropriate board as set forth herein.

A. Similar to a Use Permitted by Special Exception. If the zoning officer determines that a Use Not Specifically Provided For is similar to another use permitted by special exception under this Chapter, then the proposed use may be permitted by Special Exception if the applicant proves to the satisfaction of the Zoning Hearing Board at a public hearing that the following conditions can and shall be met:

- 1) The proposed use would be no more intensive with respect to external impacts and nuisances than uses that are permitted by right or by special exception within the zoning district;
- 2) The proposed use would be closely similar in impact and character to uses permitted by right or by special exception within that district, and
- 3) The proposed use would meet all of the standards that would apply to the use to which the proposed use is most similar to.

B. Similar to a Use Permitted as a Conditional Use. If the zoning officer determines that a Use Not Specifically Provided For is similar to another use permitted as a conditional use under this Chapter, then the proposed use may be permitted as a Conditional Use if the applicant proves to the satisfaction of the Board of Supervisors at a public hearing that the following conditions can and shall be met:

- 1) The proposed use would be no more intensive with respect to external impacts and nuisances than uses that are permitted by conditional use within the zoning district;
- 2) The proposed use would be closely similar in impact and character to uses permitted by conditional use within the zoning district; and
- 3) The proposed use would meet all of the standards that would apply to the conditional use to which the proposed use is most similar to.

**DIVISION 42:        REGULATIONS GOVERNING NONCONFORMING LOTS, STRUCTURES, AND USES**

**§ 042-010.    Effect of Nonconforming Status.**

A property owner has a constitutional right to continue a lawful preexisting nonconforming condition and the Zoning Officer(s) shall issue to a property owner a zoning permit for any lawful preexisting nonconformity so long as the property owner can prove to the zoning officer that the lot, use or structure was lawfully in existence as of the time of the enactment of the ordinance with which the lot, use or structure is in violation. Once a zoning permit

has been issued for the preexisting nonconformity, the nonconformity can continue until it is abandoned.

- A. A preexisting nonconforming condition for which a zoning permit is issued creates a vested property right that shall run with the land, not the owner.
- B. Uses and structures that do not comply with this Chapter 200 and that have no vested non-conforming rights are illegal and are required to be removed or converted to a conforming use and/or structure.

**§ 042-020.     Nonconforming Lots.**

A nonconforming lot shall be developed in conformity with all applicable Township regulations except as provided below. However, if it is a lawful preexisting nonconforming lot of record, it may still be developed even if the lot's area and/or width do not meet the Township's requirements. Improvement of a lawful preexisting nonconforming lot cannot otherwise violate other dimensional requirements or increase the existing nonconformity, except pursuant to an approved zoning variance.

- A. Residential use of a nonconforming lot. A single, permitted by right principal residential use and its customary accessory uses may be constructed, reconstructed or expanded on a lawful preexisting nonconforming lot, provided all of the following additional requirements are met:
  - 1) The lot must be a lawful preexisting nonconforming lot of record. All federal, state and local wetland regulations shall be met.
  - 2) Sewer or septic system and applicable well requirements shall be met.
  - 3) If the subject lot is in a recorded subdivision having yard setback requirements set forth on the recorded subdivision plan or in the recorded deed, those delineated yard setbacks shall be applied in place of the zoning yard requirements.
  - 4) If no yard setback requirements are set forth on the recorded plan or in the recorded deed, the following shall be applied for a single-family dwelling unit:
    - a. Lots having a width of 100' or greater but less than 150' shall have a minimum side yard setback of 20'.
    - b. Lots having a width of 79' or greater but less than 100' shall have a minimum side yard setback of 15'.
    - c. Lots having a width of 49' or greater but less than 79' shall have a minimum side yard setback of 12'.

- d. Lots having a depth less than 100' shall have a minimum front yard setback of 30'.
  - e. Lots having a depth less than 100' shall have a minimum rear yard setback of 20'.
  - f. Triangular lots shall have a minimum front yard setback of 25'.
  - g. Triangular lots shall have a minimum rear yard of 15'.
- B. Non-residential use of a preexisting nonconforming Lot. If a lawful preexisting nonconforming lot is proposed for or occupied by a principal non-residential use, then a building may be constructed on it for any use permitted by right in that district in which the lot is located provided that all requirements are met except for the existing lawful nonconformity, including the off-street parking and loading requirements and yard requirements for the applicable district.

**§ 042-030.     Expansion of Nonconforming Structure.**

A lawful preexisting nonconforming structure may be altered, reconstructed, enlarged and/or expanded, including an extension of a nonconforming building footprint, so long as the alteration, reconstruction, enlargement and/or expansion does not create a new dimensional nonconformity or worsen an existing dimensional nonconformity without the granting of a variance. In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements for nonconforming uses as set forth in this Chapter.

**§ 042-040.     Reconstruction of Nonconforming Structure or Structure Containing a Nonconforming Use.**

- A. Prior Certificate of Nonconformity. If a property has been previously issued a certificate for a nonconforming structure or a certificate for a structure containing a nonconforming use and said nonconforming structure is subsequently partially damaged or destroyed, then the landowner has a right to demolish and rebuild as follows:
- 1) An application for a zoning and building permit must be submitted within eighteen (18) months after the date of damage or destruction;
  - 2) Work must commence within six (6) months of the issuance of the building permit;
  - 3) No new nonconformity or increase in nonconformity may be created by any reconstruction; and
  - 4) The property must be properly secured during such time in such a way to keep out trespassers and to avoid harm to neighboring properties.
- B. No Prior Certificate of Nonconformity. If the property did not have a certificate for a nonconforming structure or a certificate for a nonconforming use prior to the

preexisting nonconforming structure being partially damaged or destroyed, the zoning officer shall issue to a property owner a zoning permit for any lawful preexisting nonconformity so long as the property owner can prove to the zoning officer that the lot, use or structure was lawfully in existence as of the time of the enactment of the ordinance with which the lot, use or structure is in violation. The property owner may then proceed in compliance with §042-040.A.

- C. C-1 Zoning District. Within the C-1 Zoning District only, a lawful preexisting nonconforming structure with respect to front yard setback requirements, which contains a conforming use and for which the nonconforming structure has been issued a certificate of nonconformity, may be demolished and rebuilt at the existing nonconforming setback line, provided that the following conditions are met:

- 1) The new structure shall be located no closer to the street line at any point than the prior structure was located; and
- 2) The building footprint that lies within the required front yard setback shall be no greater after reconstruction than the building footprint that was located within the required front yard setback prior to removal.

**§ 042-050.     Expansion of a Nonconforming Use.**

- A. A lawful preexisting nonconforming use may be expanded (or subject to a series of expansions) by special exception approval, so long as the total percentage increase of the nonconforming condition that existed at the time of enactment of the ordinance that created the nonconforming condition is not increased by an aggregate amount greater than 100% of the nonconformity. The extent of the nonconforming use expansion shall be regulated based upon both total building floor area and total impervious coverage for the nonconforming use. This provision shall not allow an increase in a nonconforming height or an increase of the nonconformity of a sign or the number of nonconforming dwelling units.

- B. Variance from Percentage Limitation. A property owner may seek a variance from the percentage limitation in Section 042-050.A. so long as the property owner can satisfy the following four factors:

- 1) That an unnecessary hardship exists which is not created by the party seeking the variance and which is caused by unique physical circumstances of the property for which the variance is sought;
- 2) That a variance is needed to enable the party's reasonable use of the property;
- 3) That the variance will not alter the essential character of the district or neighborhood, or substantially or permanently impair the use or development of the adjacent property such that it is detrimental to the public's welfare; and
- 4) That the variance will afford the least intrusive solution.

**§ 042-060.     Change of Nonconforming Use.**

The nature of a preexisting nonconforming use is determined from the actual use to which the property is put, rather than from the identity of the users. A modification of a preexisting nonconforming use to a new or changed use is prohibited subject to the following:

- A. A proposed use need not be identical to the current use; it need only be sufficiently similar to the preexisting nonconforming use so as not to constitute a new or different use;
- B. A change in technology is a continuation of a use;
- C. A change in the intensity of a use is a continuation of a use; and
- D. A change in use necessitated for compliance with a state or federal law is not an expansion.

**§ 042-070. Non-Conforming Use Abandonment.**

- A. Generally. A property owner may continue to operate under the protections of a lawful preexisting nonconforming status until such time as the use has been abandoned.
- B. Burden of Proof. The Township bears the burden of proving abandonment which is established by a two-pronged test: (1) intent to abandon and (2) actual abandonment.
- C. Discontinuance Provision. If a preexisting nonconforming use has not been used for a period of eighteen (18) consecutive months, this failure to use the non-conforming use shall establish the “intent to abandon” the nonconforming use.
  - 1) Once the Township establishes the “intent to abandon”, the burden of persuasion shifts to the party challenging the claim of abandonment.
  - 2) If the challenger introduces evidence of contrary intent, the presumption of “intent to abandon” is rebutted and the burden of persuasion shifts back to the party claiming abandonment.
- D. Actual Abandonment. Actual abandonment cannot be inferred from or established by a period of nonuse alone. In addition, the Township must establish actual abandonment through the property owner’s overt acts or failure to act.

**DIVISION 43: ALLOWED USES BY DISTRICT**

**§ 043-010. Table of Use Regulations Within Zoning Districts.**

The Table of Use Regulations Within Zoning Districts is included at the end of this Chapter in Attachment 3.

**DIVISION 44:        SUPPLEMENTARY        REGULATIONS        GOVERNING**  
**SPECIFIC USES**

**These supplementary regulations shall apply to the specific uses below.**

**§ 044-010.        A - Agricultural Uses**

**A.        A1.        Agriculture, General.**

- 1)        Minimum lot area: Two acres.
- 2)        No structure intended for the “Agriculture, General” or “Agriculture, Intensive” Uses, other than a dwelling or residential accessory use, shall be constructed within 100 feet from any adjoining street or property line, and all exhaust fans shall be directed away from the closest residences.
- 3)        The location of manure storage and processing facilities shall conform to the requirements of the Pennsylvania Nutrient Management Act.<sup>29</sup> Notwithstanding anything contained in this Ordinance to the contrary, all manure shall be managed in a manner that complies with the Clean Streams Law<sup>30</sup> and the practices prescribed by the Manure Management Manual.
- 4)        Storage and application of pesticides, fertilizers and/or chemicals shall be in accordance with Federal and State laws
- 5)        All grazing and pasture areas utilized for this purpose shall be fenced.
- 6)        The keeping of exotic animals shall comply with regulations of the Pennsylvania Game Commission and shall require a ten acre minimum lot area.
- 7)        If a lot includes the keeping of more than two grazing animals per acre or 30 chickens or similar poultry overall, it shall be considered to be “Agriculture, Intensive” and the additional requirements for such use shall apply. See also the Pennsylvania Agriculture, Communities and Rural Environment Act ("ACRE").<sup>31</sup>
- 8)        The keeping of animals, other than domestic animals, on less than 10 acres or more of contiguous land shall be subject to the following requirements:
  - a.        Livestock shall not be permitted to over-graze any property in Middle Smithfield Township except during the winter months of November through February. Over-grazing shall be defined as

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<sup>29</sup> Editor’s Note: See 3 PaC.S.A. § 501 et seq.

<sup>30</sup> Editor’s Note See 35 P.S. § 691.1 et seq.

<sup>31</sup> Editor’s Note: See 35 P.S. § 691.1 et seq.



grazing to the point of removing all or almost all vegetative growth from the ground, leaving only one inch (1") or less of cover.

- b. The keeping of grazing animals shall be limited to no more than one grazing animal, as defined, on the first two (2) acres of contiguous land, and one grazing animal per acre in excess of two (2) acres for each additional contiguous acre of land.
  - c. The keeping of both grazing and non-grazing animals on the same acreage described above shall be limited to the maximum number of grazing and non-grazing animals for the acreage provided herein.
  - d. Exemption. Members of youth programs sponsored and organized for the purpose of agricultural education and involving traditional agricultural animals, are hereby exempted from the provisions of this subsection, during the keeping and raising of traditional agricultural animals within the parameter of the youth programs.
- 9) Silos shall be situated not less than the height of the silo from any street or property line.
- 10) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 11) The keeping of chickens or similar poultry on less than ten acres of contiguous land shall be subject to the following requirements:
- a. No more than 25 chickens or similar poultry shall be permitted on a lot size between two and five acres. Roosters are not permitted.
  - c. No more than 30 chickens or similar poultry shall be permitted on a lot size between five and ten acres. Roosters are not permitted.
  - d. If a lot includes the keeping of more than 30 chickens or similar poultry, it shall be considered "Agriculture, Intensive" and the additional requirements for such use shall apply.
  - e. The lot shall have an existing single family residence.
  - f. Chickens:
    - [1] A coop is required for the keeping of chickens. The minimum coop size is three square feet per chicken. The coop shall be stationary, secure, roofed and enclosed in a way that contains the chickens. An outside run for chickens is permitted when attached to the coop and enclosed in such a manner as to securely contain the chickens. A coop, with or without an outside run, requires the issuance of a zoning permit and must meet setbacks for an accessory building.
    - [2] It shall be unlawful to allow chickens to run at large upon adjoining properties.

[3] Chicken manure shall not be allowed to accumulate to the degree that it becomes a public health hazard or odor, insect or other nuisance.

**B. A2. Agriculture, Intensive.**

- 1) Minimum lot area: Ten (10) acres.
- 2) If a lot includes the keeping of more than two grazing animals per acre or 30 chickens or similar poultry overall, it shall be considered to be “Agriculture, Intensive” and a ten acre minimum lot area shall be required. Animal equivalent units shall be calculated as provided in State nutrient management regulations, except that only contiguous land shall be considered in each calculation. See also the Pennsylvania Agriculture, Communities and Rural Environment Act ("ACRE").<sup>32</sup>
- 3) All other rules and regulations set forth in subsection A, “A1. Agriculture, General”, to the extent not in conflict with other supplementary regulations set forth in this subsection B., A2. Agriculture, Intensive, shall apply and are incorporated herein by reference as though set forth in its entirety.
- 4) Any building or structure used for the keeping or raising of livestock or poultry shall be situated not less than one hundred (100’) feet from any street or property line that is not in common ownership with the tract of land where the animals are kept. Livestock and poultry are not permitted to run at large onto streets or the property of others, without the permission of the other property owner. A fenced-in area for the keeping of livestock and poultry shall be provided and shall not be less than one hundred (100’) feet from a dwelling other than the owner’s.
- 5) Silos shall be situated not less than the height of the silo from any street or property line.
- 6) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**C. A3. Forestry.**

- 1) Forestry shall require a zoning permit, and these regulations, shall apply when the total harvesting area is 1/2 acre or greater in a calendar year, except as otherwise noted below. These provisions shall not regulate the following:
  - a. Cutting of up to 10% of trees with a trunk diameter of six inches or greater (measured 3.5 feet above the ground level) on a lot in any calendar year, provided such cutting does not involve clear-cutting but instead involves routine thinning of woods;
  - b. Cutting of trees with a trunk diameter of less than six inches

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<sup>32</sup> Editor’s Note: See 3 Pa.C.S.A. § 311 et seq.

(measured 3.5 feet above the ground level);

- c. Cutting of dead, dangerous, diseased or insect infested trees; and
  - d. Cutting of trees that the applicant proves to the Zoning Officer is necessary to accommodate a Township-approved subdivision, land development, street, driveway, building, utility or use.
- 2) An application for forestry shall be made a minimum of 30 days prior to the start of work. No forestry shall occur until a permit has been issued by the Zoning Officer.
  - 3) The application shall include a written timbering plan, which shall be prepared by a qualified professional. The provisions of the plan shall be followed throughout the operation. The plan shall be available for inspection at the harvest site at all times during the operation.
  - 4) The landowner, the applicant and the timber operator shall be jointly and separately responsible for complying with the terms of the logging plan and permit.
  - 5) Logging plan.
    - a. The applicant shall specify, in writing, the land on which harvesting will occur, the expected size of the harvest area and the anticipated starting and completion date of the operation. The zoning permit shall be valid for up to two years from the date of issuance.
    - b. The logging plan shall include, at a minimum, the following information:
      - [1] Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails and landings.
      - [2] An erosion and sedimentation control plan prepared by a qualified professional in accordance with the requirements of Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. § 691.1 et seq.), to the extent applicable to the proposed timber harvest, or such future succeeding regulations. In the event that the proposed timber harvest would require County Conservation District or Pennsylvania DEP approval of an erosion and sedimentation control plan and/or stormwater control plan, the applicant shall provide such approvals as part of applicant's application for zoning permit.
      - [3] All timbering activities shall use best management practices which shall be shown on the plan.
      - [4] A narrative of all stream and road crossings, including required permits from the appropriate agency.
      - [5] All Township and/or Penn DOT highway occupancy

permits, if applicable.

[6] An application shall be submitted to the Township, with a map showing the following:

(a) site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within the property.

(b) Significant topographic features related to potential environmental problems.

(c) Location of all earth disturbance activities, such as roads, landings and water control measures and structures

(d) The general location of the proposed operation to municipal and state highways, including any access to those highways.

[7]. The application shall also include the name and address of the property owner and the person who will be responsible to oversee the forestry operations.

6) Forestry practices.

- a. Felling or skidding on or across any public street is prohibited without the express written consent of the Township or PENNDOT, whichever is responsible for maintenance of the street.
- b. No tops or slash shall be left within 25 feet of any public street, property line or private roadway providing access to adjoining property.
- c. All tops and slash between 25 feet and 50 feet from a public street right-of-way or private road providing access to adjoining property or within 50 feet of adjoining property shall be lopped so that they do not extend more than four feet above the surface of the ground.
- d. Stream crossing and wetland protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachment Act (32 P.S. § 693.1 et seq.), shall be complied with.
- e. All earthmoving within this area shall be minimized or fully avoided.
- f. No tops or slash shall be left within a stream channel or floodway. Unless fully delineated, a floodplain shall be assumed to be all that area within 50 feet from the center of a waterway.
- g. The use of clear-cutting must be fully justified by a forestry plan prepared by a qualified professional. Clear-cutting shall be prohibited on slopes greater than 25%.

- h. A twenty-foot minimum setback shall be maintained for forestry operations from a public street right-of-way and from any lot line of property, except such lot line setback shall not apply if the adjoining property owner provides a written, notarized and signed waiver of the setback to the Zoning Officer.
- 7) Public road responsibility. The landowner and the operator shall be responsible for repairing any damage to Township roads caused by traffic associated with the forestry operations to the extent the damage is in excess of that caused by normal traffic. The applicant shall document the structural condition of the public roads that will serve as the primary routes by trucks to the use, including core borings and pictorial documentation, for review by the Township Engineer. If it is determined that the roads are not able to support the proposed design loads coming from the proposed operation and/or will be expected to exceed to design capability of the original road design, then the Township shall require that the applicant post financial security to cover the costs of damage that may occur to public roads as a result of the trucks. Such financial security shall remain in full force until the Board of Supervisors issues a written notification that all provisions of this chapter and the permit have been complied with, provided that the Township has an engineered study of the condition of the said roads, including a traffic study of said roads involved; if not then the financial security requirement is waived per forestry regulations regarding the hauling of timber over public roads.
- 8) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**D. A4. Kennel, State Licensed.**

- 1) Minimum lot area: Six (6) acres.
- 2) Minimum setback: All boarding buildings, outdoor pens, stalls and runways shall be located at least 200 feet from all residential lot lines in a residential zoning district.
- 3) Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot routinely be heard within any adjacent principal building.
- 4) Outdoor running areas shall be fenced in a manner that restricts access and provides for a full enclosure. Runs for dogs shall be separated from each other by visual barriers a minimum of four feet in height to minimize dog barking.
- 5) No animal shall be permitted to use outdoor runs from 11:00 p.m. to 6:00 a.m. that are within 200 feet of an existing dwelling in a residential zoning district.
- 6) The keeping of exotic animals shall not be permitted.

- 7) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**E. A5. Kennel, Private, Non State-Licensed.**

- 1) Minimum Lot Area: Six (6) Acres.
- 2) All buildings in which animals are housed and all runs shall be located at least 200 feet from all residential lot lines in a residential or conservation zoning district.
- 3) Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot routinely be heard within any adjacent principal building.
- 4) Kennels covered by this use category must be constructed and operated in accordance with the “Canine Health Board Standards for Commercial Kennels”, as established by the Commonwealth of Pennsylvania, as may be amended from time to time.
- 5) The keeping of exotic animals shall not be permitted.
- 6) All other rules and regulations set forth in Subsection D, “A4. Kennel, State Licensed”, to the extent not in conflict with other supplementary regulations set forth in this Subsection E, “A5. – Kennel, Private, Non State-Licensed”, shall apply and are incorporated herein by reference as though set forth in its entirety.
- 7) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**F. A6. Nursery.**

- 1) Minimum Lot Area: Five (5) Acres.
- 2) No structure intended for the “Nursery” Use, other than a dwelling or residential accessory use, shall be constructed within one hundred (100) feet from any adjoining street or property line.
- 3) Storage and application of pesticides, fertilizers and/or chemicals shall be in accordance with Federal and State laws.
- 4) The maximum impervious surface ratio shall be ten percent (10%). This ratio may be exceeded provided the requirements of Intensive Agriculture are met and provided Intensive Agriculture is a permitted use in the applicable zoning district.
- 5) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**G. A7. Riding Academy.**

- 1) Minimum lot area: 2.5 Acres for the first horse or similar animal, plus one (1) acre for each additional horse or similar animal.
- 2) No structure intended for the “Riding Academy” Use, other than a dwelling

or residential accessory use, shall be constructed within one hundred (100) feet from any adjoining street or property line.

- 3) No corral or fenced-in area shall be within 50 feet of any street or lot line.
- 4) All animals, except while exercising or pasturing, shall be kept within a completely enclosed building which was erected and maintained for that purpose.
- 5) The location of manure storage and processing facilities shall conform to the requirements of the Pennsylvania Nutrient Management Act<sup>33</sup>. Notwithstanding anything contained in this Ordinance to the contrary, all manure shall be managed in a manner that complies with the Clean Streams Law<sup>34</sup> and the practices prescribed by the Manure Management Manual.
- 6) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**H. A8. Stable. (other than a Use H13 Private Stable)**

- 1) Minimum lot area: 2.5 Acres for the first horse or similar animal, plus one (1) acre for each additional horse or similar animal.
- 2) No structure intended for the “Riding Academy” Use, other than a dwelling or residential accessory use, shall be constructed within one hundred (100) feet from any adjoining street or property line.
- 3) No corral or fenced-in area shall be within 50 feet of any adjoining street or property line.
- 4) All animals except while exercising or pasturing shall be kept within a completely enclosed building which was erected and maintained for that purpose.
- 5) The location of manure storage and processing facilities shall conform to the requirements of the Pennsylvania Nutrient Management Act<sup>35</sup>. Notwithstanding anything contained in this Ordinance to the contrary, all manure shall be managed in a manner that complies with the Clean Streams Law<sup>36</sup> and the practices prescribed by the Manure Management Manual.
- 6) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**§ 044-020 B - Residential Uses.**

**A. B1. Conservation Development.**

- 1) See Division 63 “Conservation Development Options” for regulations

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<sup>33</sup> Editor’s Note: See 2 Pa.C.S.A § 501 et seq.

<sup>34</sup> Editor’s Note: See 35 P.S. § 691.1 et seq.

<sup>35</sup> Editor’s Note: See 2 Pa.C.S.A § 501 et seq.

<sup>36</sup> Editor’s Note: See 35 P.S. § 691.1 et seq.

governing Conservation Development Options which are incorporated into this Section by reference as though set forth in their entirety herein.

- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**B. B2. Dwelling, Apartment Complex.**

- 1) Maximum density shall be six dwelling units per acre of adjusted tract area pursuant to §130-020 of the Zoning Ordinance.
- 2) A dwelling unit shall not be leased for periods of less than 30 days.
- 3) In addition to any sidewalk along a street that may be required under the SALDO, a sidewalk or other Township-approved pedestrian pathway shall connect a pedestrian entrance of each apartment building to a street.
- 4) A minimum of 20 percent of the total land area shall be landscaped in trees and shrubs, maintained in existing trees and natural vegetation and/or improved for outdoor recreation uses. See also the recreation land and/or fee requirements in the SALDO.
- 5) Exterior accessibility of buildings by emergency equipment shall be reviewed by local fire officials.
- 6) An architectural elevation of each proposed new principal building shall be provided to the Township for review at least 45 days prior to the intended date of final land development approval for the building.
- 7) Major resident pedestrian entrances to buildings shall include a roof overhang, awning, canopy, inverted entrance or roof extension to provide protection from inclement weather.
- 8) Rooftop heating and air conditioning equipment shall be screened from view from public streets by rooflines, parapet walls, grading or architectural screens with materials and colors consistent with the materials of the building.
- 9) Each dwelling unit shall be served by both public water and public sanitary sewage services.
- 10) This use shall comply with all applicable federal, state and Township laws, rules, ordinances and/or regulations.

**C. B3. Dwelling, Boarding House.**

- 1) Maximum Density: 6 bedrooms per acre (each bedroom is limited to (2) persons). In no case shall the lot serve a total of more than 20 persons.
- 2) If an existing structure is converted into a boardinghouse, then the supplementary use regulations for Subsection H, B8 Dwelling, Residential Conversion, shall also apply to this Use.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.



**D. B4. Dwelling, Dormitory.**

- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 2) The use shall be only occupied by either: (a) full-time students of an accredited college or university that is within a maximum of one mile from the proposed Dormitory, or (b) employees of a business within the Township that is located within a maximum of 2,000 feet from the proposed Dormitory.

**E. B5. Dwelling, Duplex**

- 1) All units within the project shall be connected to a publicly or privately owned central sanitary collection and treatment system and a central potable water distribution system. The system shall meet appropriate minimum water pressure and fire flow and hydrant requirements.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**F. B6. Dwelling, Group Home.**

- 1) "Dwelling, Group Home" Uses shall meet the supplementary use regulations for the particular type of dwelling which they occupy.
- 2) All zoning permit applications for a "Dwelling, Group Home" shall state, in addition to standard application information, the following:
  - a. Number of residents in said dwelling.
  - b. Number of professional staff members for said dwelling.
  - c. Type or classification of residents.
  - d. Whether 24 hour on-site staffing is required, and if so, a statement that 24 hour on-site staffing will be provided.
  - e. License No. and/or Certification No. and/or Permit No. from Commonwealth of Pennsylvania for the operation of said "Dwelling, Group Home". A copy of said license, certification and/or permit shall be attached to zoning permit application.
  - f. Description of the nature of care/treatment provided at "Dwelling, Group Home",
  - g. Identification of the sponsoring agency, if any, of said "Dwelling, Group Home".
  - h. Verification that local emergency service providers have been notified, in writing, of the presence of the "Dwelling, Group Home".
- 3) The base maximum capacity in a "Dwelling, Group Home" is 6 persons [professional and staff personnel is not included in this calculation]; however, a higher number of residents may be approved by the Board of Supervisors as part of the Conditional Use process, depending on the type

of dwelling unit(s) being occupied and the infrastructure (i.e. water, sewer, parking and so forth) available to said Use.

- 4) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- G. B7. Dwelling, Mobile/Manufactured Home.**
- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
  - 2) The home shall be securely anchored to the ground in a manner that meets or exceeds the manufacturer's recommendations.
  - 3) The area between the ground level and the perimeter of the mobile home shall be enclosed by means of a suitable skirting.
  - 4) See also the Construction Codes regarding installation.
- H. B8. Dwelling, Residential Conversion.**
- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
  - 2) One dwelling unit shall be allowed on the lot for each 15,000 square feet of Adjusted Tract Area, except such number shall be increased to 43,560 square feet if the dwellings are not served by central water and central sewage services.
- I. B9. Dwelling, Single-Family Detached.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- J. B10. Dwelling, Townhouse or Rowhouse.**
- 1) All Townhouse dwellings shall be serviced by public sewer and water and/or centralized sewage facilities and centralized water services.
  - 2) Vehicular access points onto all public streets shall be minimized to the lowest reasonable number; no townhouse dwelling within a tract of three (3) or more dwelling units shall have its own driveway entering onto a public street.
  - 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- K. B11. Dwelling, Twin Dwelling Unit.**
- 1) A "Dwelling, Twin Dwelling Unit" shall have only one driveway access point onto a public road.
  - 2) If a "Dwelling, Twin Dwelling Unit" shares a water and/or sewer facilities system, any applicant for a zoning permit must provide to the Zoning Officer a fully executed and recorded Agreement for the Ownership and Maintenance of said joint system(s) prior to the issuance of a zoning permit.
  - 3) This Use shall comply with all applicable Federal, State and Middle

Smithfield Township laws, rules, ordinances, and/or regulations.

**L. B12. Homeless Shelter, Permanent.**

- 1) A “Homeless Shelter, Permanent” shall not be located in a dwelling that is physically attached to another dwelling that is not in common ownership.
- 2) The applicant shall provide evidence that sufficient supervision will be provided on-site during all hours that the use is in operation.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**M. B13. Manufactured Home Park.**

- 1) Dimensional Requirements:
  - a. Minimum Lot Size for Park: 2.5 Acres
  - b. Minimum Setback for Manufactured Home Unit from edge of internal road cartway – 20 ft.
  - c. Minimum spacing between Manufactured Home Units – 25 feet, not including canopies or awnings.
  - d. Minimum boundary setback for all buildings – 40 feet.
  - e. Minimum spacing between an Accessory Building and a Manufactured Home with a different owner – 20 feet.
  - f. Maximum density – five dwelling units per net acre of land based upon the “Adjusted Tract Area”.
- 2) The following lot and yard requirements shall be observed for each manufactured home unit site:
  - a. Minimum lot area: 5,000 square feet.
  - b. Maximum lot coverage: 20%.
  - c. Minimum lot width: 50 feet.
  - d. Minimum lot depth: 50 feet.
  - e. Minimum front yard: 10 feet, measured from the interior street line.
- 3) All applications for a manufactured home park shall be accompanied by a plot plan showing the location of the site, topography, drainage, number of units, access, road layout, name and address of the owner and names of abutting property owners.

- 4) The following conditions shall apply to all mobile home dwellings:
  - a) No more than one manufactured home shall be placed on a manufactured home lot, and such manufactured home shall be occupied by not more than a single family.
  - b) The area between the ground level and the perimeter of the manufactured home shall be enclosed by means of a suitable skirting.
- 5) Landscaping.
  - a) Adequate screening and/or fencing shall be required within a buffer strip of not less than 45 feet in width to be devoted exclusively to that purpose, adjacent to all exterior lot lines of manufactured home parks, exclusive of the lot line abutting public roads. The screening and/or fencing shall be such that it will create, unless it can be preserved from existing vegetation, within two growing seasons, a continuous screen five feet in height and of such density that will obscure 75% of the light emitted from automobile headlights on the premises throughout the course of the year. Compliance with this Section shall be executed so that sight is unobstructed at intersections within a triangle measuring 30 feet along the frontage road right-of-way and 10 feet along the right-of-way of interior streets.
  - b) Within such buffer strip, no use, activity or sign shall be established other than the following:
    1. Such interior streets as are necessary to provide proper egress and ingress.
    2. Directional signs in conjunction with said interior streets.
- 6) Recreation. At least 10% of the total area of a manufactured home park, exclusive of the buffer strip, shall be devoted to playground(s), park(s) or other recreational purposes, and shall be appropriately equipped.
- 7) Access to individual manufactured home spaces shall be from interior parking courts, access drives or private streets and shall not be from public streets exterior to the development.
- 8) All units within the manufactured home park shall be serviced by a centralized sewage facilities system and a centralized or community water supply system.
- 9) This Use shall comply with all applicable Federal, State and Middle

Smithfield Township laws, rules, ordinances, and/or regulations.

- N. **B14. Senior Active Adult Development.** See Division 62 and the table in 200 Attachment 8 for regulations governing senior active adult developments.

**§ 044-030 C - Institutional and Recreational Uses.**

- A. **C1 Bed and Breakfast.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

- 1) The minimum lot size for this Use shall be one acre or the minimum lot area required in the applicable zoning district, whichever requirement is greater.
- 2) There shall be no use of show windows for display or advertising visible outside the premises to attract guests other than a single, non-illuminated sign which may not exceed the restrictions for such signs in this Chapter.
- 3) The Use shall be carried on primarily by members of the immediate family of the owner who must reside on the premises. Non-resident employees shall be limited to two in addition to the resident members of the family of the owner.
- 4) There shall be no separate kitchen or cooking facilities in any guest room. Food may be served to guests only.
- 5) The maximum, uninterrupted length of stay shall be 30 days.
- 6) The use of any amenities provided by the Use such as a swimming pool or tennis courts shall be restricted to the guests of the establishment.
- 7) This Use may not be established until there is compliance with all other applicable Township rules and regulations. In addition to original compliance, the bed & breakfast may be periodically inspected by the Township for compliance with the applicable safety standards.

- B. **C2. Cemetery.**

- 1) A cemetery may be located on the same lot as an allowed place of worship.
- 2) In no case shall any cemetery, grave site and/or structure relating to a cemetery be located within the 100 year floodplain of an adjacent watercourse.
- 3) Lot Coverage. No more than 10% of the lot to a maximum of five acres, may be devoted to above-ground buildings or other impervious surfaces not serving as burial markers or memorials.
- 4) No outside storage shall be permitted.

5) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

6) Additional requirements for pet cemetery:

a. All grave markers shall be placed flush to the ground.

b. All caskets shall be durable construction and not subject to breakage or deterioration. Caskets shall not be stacked one above another underground and the top of every casket shall be at least three (3) feet below the existing grade. The owner or operator shall maintain at all times a current burial plot diagram showing all plots in use, which shall be available to the township for inspection upon request. This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

C. **C3. Community Center.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

D. **C4. Day Care Center, State-Licensed Facilities.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

E. **C5. Detention Facility.**

1) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

2) The applicant shall prove to the Board of Supervisors that there are sufficient setbacks and/or soundproofing to minimize noise nuisances for neighbors and that there will be sufficient security measures to protect the public.

3) All detention facilities and similar structures and uses shall, in addition to all other applicable standards in this Chapter, be in strict conformity with the following specific requirements and regulations:

a. Lot Size - In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of 50 acres undivided by any highway right-of-way of any type.

b. Setbacks - The buildings shall be set back a minimum of 250 feet from the right-of-way line of any abutting public road and 150 feet from other property lines.

c. Security Fencing - Any required or proposed security fencing shall be not less than 500 feet from any property containing a residential structure or use.

- d. The above Use shall comply with the following requirements unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern:

<b>Min. Lot Width (feet)</b>	<b>Maximum (Max) Lot Coverage (Percent)</b>	<b>Min. Lot Depth (feet)</b>
250	25%	400

- F. **C6. Gaming/Gambling Establishment.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- G. **C7. Golf Course.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- H. **C8. Library or Museum.**
- 1) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
  - 2) Minimum lot area: Two acres.
  - 3) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.
  - 4) The parking requirements provided for in this Chapter shall be complied with. Parking shall be adequately screened when situated within fifty (50) feet of land zoned for or in residential use.
- I. **C9. Life Care Facility.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- J. **C10. Medical Facilities.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- K. **C11. Municipal Service Facility.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- L. **C12. Nursing Home.**
- 1) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
  - 2) A minimum of ten percent of the lot area shall be landscaped and improved with paths for the use and enjoyment by the residents.
  - 3) This use shall be limited to a maximum density of 20 residents per acre in a residential district and 40 residents per acre in any other allowed

district. Central water and central sewage services and/or public water and sewer services shall be provided for any density greater than 3 residents per acre.

- 4) Lot and yard requirements. Unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern, Nursing Homes shall comply with the following requirements:

<b>Minimum (Min.) Lot Area (acres)</b>	<b>Min. Lot Width (feet)</b>	<b>Maximum (Max.) Lot Coverage (Percent)</b>	<b>Min. Lot Depth (feet)</b>	<b>Min. Front Setback (feet)</b>	<b>Min. Side Setback (feet)</b>	<b>Min. Rear Setback (feet)</b>
9 acres	250	20%	400	100	100	100

- 5) Existing natural features, drainage and vegetation shall not be removed, changed or destroyed, except where necessary for the construction and operation of such nursing home.

**M. C13. Private Club.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**N. C14. Recreational Camping Park.**

- 1) Minimum lot area: 20 Acres, except 10 acres in a commercial district.
- 2) Minimum setback requirements for all campsites and structures shall be 75 feet from any lot line
- 3) No person other than a bona fide resident manager/caretaker shall reside at a recreational camping park for more than six months in any calendar year.
- 4) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**O. C15. Recreational Facility.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**P. C16. Resort Complex/Commercial Resort Development.**

- 1) See Division 61 "Resort Complex/Commercial Resort Development Options" for applicable regulations.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**Q. C17. School.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

- 1) Religious, sectarian or non-sectarian, denominational private school, or public school, including but not limited to, kindergarten, elementary school,



junior high school, high school, college and/or post graduate school, but shall not include trade schools.

- 2) Access shall be taken from an arterial or collector highway.
- 3) Unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern, Schools shall comply with the following:

<b>Minimum (Min)</b>	<b>Min.</b>	<b>Min.</b>	<b>Min.</b>	<b>Min</b>	<b>Maximum</b>
<b>Lot Area</b>	<b>Lot</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>	<b>Height</b>
<b>(acres)</b>	<b>Width</b>	<b>Setback</b>	<b>Setback</b>	<b>Setback</b>	<b>(feet)</b>
	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>	
3 acres	300	75	100	100	50

- 4) Outdoor play and/or recreation areas shall be 100 feet from side and rear property lines. Outdoor play areas shall be sufficiently screened to protect the neighborhood from inappropriate noise and other disturbances.
- 5) Completely detached buildings on the same lot shall not be less than 20 feet from each other.
- 6) A traffic impact study shall be required.

**R. C18. Shooting Range and Archery Range.**

- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 2) The applicant shall prove there is a sufficient berm or barrier to protect public safety and sufficient warning signs.
- 3) All outdoor shooting ranges shall be situated not less than 500 feet from any property line and not less than 1,500 feet from any principal residential or commercial structure existing on the effective date of this Section. This shall not apply to structures on the same parcel as the shooting range.
- 4) All outdoor archery ranges shall be situated not less than 200 feet from any property line and not less than 300 feet from any principal residential or commercial structure existing on the effective date of this Section. This shall not apply to structures on the same parcel as the shooting range.
- 5) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.

- 6) All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Township may require such additional safety features deemed necessary to meet the intent of this Section. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.
- 7) All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of the Township's Noise Ordinance in accordance with Pennsylvania law.
- 8) Security fencing may be required by the Township of such extent and design to restrict accidental access to any range.
- 9) A 300 foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.
- 10) The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and State and Federal regulations.

**S. C19. Ski Area.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**T. C20. Theater.**

- 1) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- 2) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.
- 3) The parking requirements provided for in this Chapter shall be complied with.

**U. C21. Treatment Center.**

- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 2) The applicant shall prove to the Board of Supervisors that there will be sufficient staff oversight and security measures to protect the public safety.
- 3) In addition to the buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance, supplemental buffering shall be required to ensure the following:

- a. Parking areas shall be visually secluded from adjacent properties via a landscaping planting screen acceptable to the Township.
  - b. Side and rear lot lines shall be planted with a minimum of one canopy tree per 40 feet, plus one evergreen tree per 30 feet and/or as otherwise required by the Township. Plantings may be installed in an informal arrangement, subject to approval of the Zoning Hearing Board.
- 4) All plant material, size, species, caliper, and arrangement shall be acceptable to the Township and in accordance with the Township Subdivision and Land Development Ordinance and this Chapter.
- 5) The housing of an individual whose occupancy or tenancy in a Treatment Center would constitute a direct threat to the health or safety of other individuals, or whose occupancy or tenancy would result in substantial physical damage to the property of others is prohibited.
- 6) The minimum lot size for a Treatment Center use is two acres.
- 7) The applicant shall provide a written statement describing how the facility will have adequately trained staff supervision for the number and type of residents. There shall be 24 hour on-site staffing if necessary for the number and type of residents to ensure the health, safety and general welfare of the Township residents.
- 8) The applicant shall provide the Township with sufficient evidence of any requisite Federal, State or County licensing or certification. If such licensing or certification is changed, suspended or revoked, the applicant/operator shall provide written notice to the Township within seven days.
- 9) Lot and yard requirements. Unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern, Treatment Centers shall meet the following requirements:

<b>Min. Lot Width (feet)</b>	<b>Maximum (Max) Lot Coverage (Percent)  (feet)</b>	<b>Min. Lot Depth (feet)</b>	<b>Min. Front Setback (feet)</b>	<b>Min. Side Setback (feet)</b>	<b>Min Rear Setback</b>
200	50%	200	50	50	50

**V. C22. Worship, Place of, and Related Uses.**

- 1) A maximum of one dwelling unit may be accessory to, and located upon the same parcel as, the place of worship and subject to all the underlying zoning district's regulations. Such dwelling unit shall only house employees of the Place of Worship or a religious leader and his/her family.
- 2) If within a residential district, any new place of worship shall be adjacent to an existing collector or arterial street that is in public ownership.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 4) Minimum lot area – one acre, unless a larger lot size is required by other zoning district regulations, in which case the greater and/or more restrictive regulation shall govern.

**§ 044-040 D - Office Uses.**

A. **D1. Office.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

B. **D2. Business Park.**

- 1) At least seventy percent (70%) of the gross floor space of the business park shall be utilized for office uses.
- 2) All uses within the business park shall take access from an interior roadway or shared driveway.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

C. **D3. Data Centers and Data Center Accessory Uses.** This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

- 1) A Data Center use shall be permitted as a conditional use in the C2 and I Zoning Districts subject to compliance with this section and all applicable Township ordinances and federal and state statutes.
- 2) For purposes of this section, sensitive receptors shall be defined as residential uses, schools, preschools, daycare centers, in-home daycares, long term care facilities, retirement and nursing homes, community centers, places of worship, parks (excluding trails), campgrounds, prisons, and dormitories.
- 3) Dimensional Standards. The dimensional standards of Data Centers and Data Center Accessory Uses shall be in accordance with the provisions and restrictions provided for within the zoning district wherein the use is located, with the following exceptions:

- a. The maximum building height for a Data Center shall be Sixty [60] feet, inclusive of roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
- b. The maximum height of Data Center Accessory Uses shall be no greater than the height of the principal building.
- c. Data Centers and Data Center Accessory Uses shall be set back Two Hundred [200] feet from the boundary of any residential zoning district or the lot line of any property developed with a sensitive receptor.

**(4) Landscape Buffer.** A landscape buffer is required between Data Centers and Data Center Accessory uses and any adjoining residential zoning district, sensitive receptor, or public roadway. The landscape buffer shall comply with the following requirements:

- a. The landscape buffer shall be at least Twenty-five [25] feet in width and may be part of the minimum setback distance.
- b. Buffer plantings shall consist of native species planted as follows:
  - i. One (1) large evergreen tree per 25 linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.
  - ii. One (1) deciduous canopy (shade) tree per 75 linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2½ inch caliper at the time of planting.
  - iii. One ornamental/flowering tree per 50 linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2½ inch caliper at the time of planting for single-stemmed varieties.
  - iv. Five (5) shrubs per 25 linear feet of buffer. Size of shrubs shall be fully branched and minimum of three feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of 50% being evergreen.
- c. In the event that existing vegetation is adequate to meet the intent of the required buffer yard to screen the Data Center and Data Center Accessory Uses from adjoining residential zoning districts, sensitive receptors, and public roadways, the Board of Supervisors, upon recommendation by the Township Engineer and Planning Commission, may determine that existing

topography and/or vegetation constitutes all or part of the required buffer yard.

**(5) Screening and Fencing**

a. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including power generation or other power supply equipment, that is located within Three Hundred [300] feet of a public roadway, residential zoning districts, or the lot line of any sensitive receptor must be fully enclosed, except where not mechanically feasible based on the manufacturer's specifications. If it is not mechanically feasible to fully enclose the equipment, it must be fully screened from view using one or more of the following means:

- i. The landscape buffer required herein.
- ii. By existing vegetation that will remain on the property.
- iii. By the principal Data Center building or an accessory building
- iv. A berm averaging a minimum of five (5) feet in height above the adjacent average ground level with a maximum side slope of 3:1, provided that the berm shall be covered by a well-maintained all season natural ground cover and any required screening plantings shall be arranged on the outside and top of the berm.
- v. A visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building.

b. Fencing of the property is permitted, provided that fencing along public and private roadways is not chain-link, with or without slatted inserts, and does not include barbed wire or other similarly visibly intrusive deterrence device. An applicant shall not be required to comply with this requirement if fencing is fully screened from view by one or more of the means identified in subparagraph a. above.

**(6) Noise and Vibration**

a. The applicant shall demonstrate through a sound study conducted by a professional acoustical expert that the sound generated by a Data Center and/or Data Center Accessory Uses during normal operations shall comply with the restrictions and limitations

provided for within Chapter 136, Nuisances, of the Middle Smithfield Township Code of Ordinances as measured from the property line of the use. Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2104 and generally accepted methodology. A sound study shall be conducted at the following phases:

- i. A preliminary study shall be conducted as part of the conditional use process. The preliminary sound study shall include recommended sound reducing materials or systems as needed to meet the aforesaid sound limits.
    - ii. An interim sound study shall be conducted during the building permit approval process based upon the proposed user or users of the Data Center and Data Center Accessory Uses depicted on the building plans. Any sound reducing materials or systems recommended by interim sound study shall be incorporated into the construction plans for the use.
    - iii. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final escrow release for any land development phase. An as-built sound study may also be required thereafter by the Township. If it is determined by the as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Chapter.
  - b. Maximum decibel levels specified herein shall not apply during times of power outage, however the sound studies shall also evaluate and report anticipated decibel levels when all emergency power generation equipment is running, including backup generators.
  - c. The applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Accessory Uses, or associated equipment will be perceptible to the human sense of feeling beyond the property line.
- 7) **Parking.** No parking for a Data Center shall be located within fifty (50) feet of a property line abutting a residential district or having a residential use.
  - 8) **Off Street Loading.** A minimum of one (1) off-street loading space/dock shall be provided for a Data Center.
  - 9) **Utility Review.** The proposed use shall be serviced by public utilities and/or authorities, including but not limited to water and sewer. The applicant shall provide to the Township written verification from the appropriate public utility companies and/or authority that:

- a. A written assessment by a certified professional in the field of engineering and utility design has been made of the potential electrical, water, and/or sewer consumption of the Data Center which ensures that there is sufficient capacity available to serve the Data Center as well as the projected service needs for future growth.
- b. If the above-referenced assessment identifies a detrimental impact or threshold where utility capacity is not sufficient, the applicant shall provide, at their own expense, the necessary system improvements necessary to mitigate any limits or system constraints to accommodate the Data Center. The necessary system improvements shall conform to all specifications, procedures, and timelines required by the public utility.

10) Utility Lines. To the extent practical, utility lines, including but not limited to electronic, fiber optic, cable, and telephone lines, from substations to a Data Center shall be placed underground. This requirement shall not apply if the utility company requires above-ground lines, or the placement of under-ground lines is not feasible.

11) Emergency Access. It shall be demonstrated that there is an adequate second means of ingress and egress suitable for emergency access to the site. Written approval from the applicable Fire Company Chief shall be provided demonstrating there is adequate emergency access, truck turning, fire suppression, and fire hydrant availability on the site. The applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:

- a. Be reviewed and accepted by the local fire department and emergency management services as part of the conditional use process;
- b. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;
- c. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
- d. Ensure that all first responders receive adequate training specific to the installed system;
- e. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Data Center.



- 12) Glare or heat control. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point beyond the lot lines.
- 13) Electrical power. Every use shall be designed and operated so that the service lines, substation, etc., shall conform to the most acceptable safety requirements recognized by the Pennsylvania Bureau of Labor and Industry, shall be so constructed, installed, etc., as to be an integral part of the architectural features of the use or, if visible from abutting residential properties, shall be concealed in accordance with the landscaping requirements contained herein.
  - a. If the applicant proposes to connect the Data Center to the electric grid, the applicant shall provide documentation from the applicable electric service provider certifying that the necessary capacity is available, and that electric service provider will serve the Data Center. Known impacts on electric rates or availability for other uses directly attributable to the Data Center project shall be noted.
  - b. Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, or nuclear energy generating systems, shall not be considered part of the Data Center use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such use.
- 14) Any Data Center and Data Center Accessory Use building façade that faces a road, residential zoning district, or existing residential use must incorporate at least two of the following design elements every 150 horizontal feet:
  - a. A change in building material, pattern, texture, or color;
  - b. A change in building height;
  - c. Building step-backs or recesses having a minimum depth of five (5) feet;
- 15) The applicant shall provide proof of review and approval from the Delaware River Basin Commission for projects proposing:
  - a. Water withdrawals of 100,000 gallons per day (gpd) or more over a 30-day average from any source or combination of sources within the Delaware River Basin; or

- b. Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source.

**§ 044-050 E - Utility, Service and Transportation Uses.**

**A. E1. Airport.**

- 1) See Division 64 “Airport Overlay District” Use regulations for provisions governing Airports.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 3) The end of an airplane runway shall be a minimum of 300 feet from any lot line or street right-of-way.
- 4) All buildings and vehicle parking areas shall be setback a minimum of 100 feet from the lot line of an existing dwelling.
- 5) All areas used for the taxiing, take-off, landing or fueling of aircraft shall be setback a minimum of 200 feet from the lot line of an existing dwelling.

**B. E2. Tower-based Wireless Communications Facilities, Non-tower wireless communication facilities, and Small wireless communication facilities.**

**1) General Requirements for All Wireless Communications Facilities.**

- a. All WCF shall meet or exceed all applicable standards and provisions of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate WCF, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, the structural standards of the American Association of State Highway and Transportation Officials, the UCC, or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Township. If such standards or regulations are changed, the owner of the WCF shall bring such WCF into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the WCF at the owner’s expense.
- b. Engineer signature. All plans and drawings included in an application for a WCF shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania certifying that the information is in compliance with this Chapter and all applicable design standards.
- c. Eligible Facilities Requests (Modifications)

[1] WCF Applicants proposing a Modification to an existing WCF, which is not considered a substantial change as defined in this Chapter, shall be required only to obtain a zoning permit from the Zoning Officer. In order to be considered for such a permit, the WCF Applicant must submit a permit application to the Zoning Officer in accordance with the applicable permit policies and procedures, including any fees. Such a permit application shall clearly state that the proposed Modification constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit application shall detail all dimensional changes being made to the WCF and Wireless Support Structure.

d. Timing of Approval.

[1] Within thirty (30) calendar days of receipt of a complete application for the Modification of an existing WCF, the Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.

[2] Within sixty (60) days of receipt of a complete application for the Modification of an existing WCF, the Zoning Officer shall issue the required zoning permits authorizing modifications of the WCF.

- e. Wind and ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standards of the American National Standards Institute and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- f. Aviation safety. WCFs shall comply with all federal, state, and local laws and regulations concerning aviation safety.
- g. Public safety communications. WCFs shall not interfere with public safety communications, or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- h. Radio frequency emissions. A WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The WCF Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.
- i. Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and/or the Middle

Smithfield Township Code of Ordinances, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

- j. Non-conforming Wireless Support Structures. WCFs shall be permitted to Collocate upon existing non-conforming Wireless Support Structures. Collocation of WCFs upon existing Wireless Support Structures is encouraged even if the Wireless Support Structure is non-conforming as to location or use within a zoning district.
- k. Inspections; reports. WCF shall be inspected on a regular basis to ensure structural integrity and compliance with applicable federal, state and local codes and regulations. Inspection reports shall be submitted to the Township upon request.
- l. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be in an amount as established from time to time by resolution of the Board of Supervisors.
- m. Indemnification. Each person or entity that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person or entity, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each person or entity that owns or operates a WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- n. Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this ordinance

- o. Abandonment; Removal. In the event that the use of a WCF is to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:

- [1] All abandoned or unused WCFs and Communications Ancillary Equipment or portions thereof shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Township, unless a time extension is approved by the Township.

- [2] If the WCF or Communications Ancillary Equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF regardless of the owner's or operator's intent to operate the WCF in the future.

- [3] The Township reserves the right to pursue all available remedies under the law to ensure removal of the WCF and restoration of the site at the expense of the owner. Any delay by the Township in taking action shall not invalidate the Township's right to take action.

- p. Maintenance. The following maintenance requirements shall apply:

- [1] All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for inspection, maintenance, repair, or replacement.

- [2] Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents and in accordance with all applicable Township, state, and federal regulations

- [3] All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

- [4] Failure to Maintain. Where a WCF is not maintained in a manner to promote the safety and security of the Township's residents and in accordance with all applicable municipal, state, and federal regulations, the Township will issue a notice to remedy the condition to the owner of the WCF and the owner of the Wireless Support Structure, where such owner is not a municipal entity. If the condition is not remedied within thirty (30) days of

the notice, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed jointly and severally against the owner of the WCF and the owner of the Wireless Support Structure where such owner is not a municipal entity, and the owner of the property where the WCF facility is located outside the public rights-of-way, regardless of the owner's or operator's intent to operate the WCF in the future.

**2. Specific Requirements for Non-Tower Wireless Communications Facilities.**

- a. The following regulations shall apply to all Non-Tower WCFs that do not meet the definition of a Small WCF:

[1] Small WCF Exemption. Non-Tower WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section 44-050.B.2. Such Small WCFs shall be subject only to applicable permitting and the requirements of those Sections specific to Small WCFs.

[2] Permitted in All Districts. Non-Tower WCFs shall be permitted outside the public rights-of-way as an accessory use in all zoning districts, subject to the provisions and restrictions herein.

[3] Development Regulations.

- (a) The total height of any Non-Tower WCF shall not exceed fifteen (15) feet above the preexisting height of the Wireless Support Structure to which the WCF is attached.
- (b) In accordance with industry standards, all Non-Tower WCF applicants must submit documentation to the Township showing that the proposed Non-Tower WCF is designed to be the minimum height technically feasible and justifying the total height of the Non-Tower WCF.
- (c) If the WCF Applicant proposes to locate the Communications Ancillary Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (d) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building(s) if such communications equipment building(s) is located at ground level. Vehicular access to the communications equipment building shall

not interfere with the parking or vehicular circulations on the site for the principal use.

[4] Design.

- (a) In order to assist in evaluating the visual impact, the WCF Applicant shall provide color photo simulations showing the proposed site of the Non-Tower WCF with a photo-realistic representation of the proposed WCF as it would appear viewed from the closest residential property, adjacent roads and from other locations as required by the Township.
- (b) Non-Tower WCF shall be concealed or shall provide for Stealth Design methods that are compatible with the building and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Design utilized by the WCF Applicant shall be subject to the approval of the Township.
- (c) Non-Tower WCFs shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
- (d) Non-Tower WCFs and Communications Ancillary Equipment must be of a neutral color that is identical to or closely compatible with the Wireless Support Structure so as to make the WCF and Communications Ancillary Equipment as visually unobtrusive as possible. Roof-mounted Non-Tower WCFs shall match existing air-conditioning units, stairs, elevator towers or other background as nearly as possible.
- (e) Prohibited on Certain Structures. No Non-Tower WCF shall be located on single-family detached dwellings, single-family attached dwellings, single-family semidetached dwellings, single-family detached dwellings, or any residential accessory structure(s).
- (f) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (g) Timing of Approval.

(1) Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Zoning Officer, the Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.

(2) Within ninety (90) days of receipt of a complete application for a Non-Tower WCF, the Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

**3. Tower-Based Wireless Communications Facilities (excluding Small WCF).**

a. The following regulations shall apply to all Tower-Based WCF that do not meet the definition of a Small WCF.

[1] Small WCF Exemption. Tower-Based WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section 44-050.B.3. Such Small WCFs shall be subject only to applicable permitting and the requirements of those Sections specific to Small WCFs.

[2] Tower-Based WCFs are permitted outside the public Rights-of-Way in the CON, RR, C1, C2, and I zoning districts as a conditional use in accordance with the requirements of this Section 44-050.B.3 and 44-050.B.1.

b. Tower Based Wireless Communication Facilities are permitted by conditional use when located in the CON, RR, C1, C2, and/or I Zoning Districts in areas located 500 feet from the boundaries of the R-1, R-2, and R-3 Zoning Districts and 200 feet from any existing dwelling unit and all of the following criteria is satisfied.

[1] Tower-Based WCFs are permitted outside the public rights-of-way at a minimum height necessary to satisfy their function in the WCF Applicant's wireless communications system and a maximum height of 120 feet.

[2] The WCF Applicant for a Tower-Based WCF approval shall prove to the reasonable satisfaction of the Board of Supervisors that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable, less-intrusive alternative location exists.

[3] The application shall include a site plan, drawn to scale, showing property



boundaries, easements and lease lines, setback lines, power location, total height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, access drives, parking, fences, landscaping and existing uses on adjacent properties.

- [4] The application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Board of Supervisors' decision on an application for approval of the Tower-Based WCF.
- [5] The application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure will not exceed the structural capacity of the building when considering ice and snow loads as referenced in the prevailing Middle Smithfield Township Building Code..
- [6] An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing Wireless Support Structure. The Zoning Hearing Board may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Communications Antenna(s) on an existing Wireless Support Structure. The WCF Applicant shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one (1) mile radius of the site proposed, sought permission to install an Communications Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
  - (a) No existing support structure, building or other structure are located within the geographic area which meet the applicant's engineering requirements.
  - (b) Existing support structures, buildings or other structures are not of sufficient height or strength to meet the applicant's engineering requirements.
  - (c) The applicant's equipment would cause electromagnetic interference with equipment on the existing support structure, building or other structure.
  - (d) The applicant demonstrates that there are other limiting factors that render other locations unsuitable.

[7] Location Regulations.

- (a) Tower-Based WCFs shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.
- (b) In no case shall a Tower-Based WCF be located within 500 feet of any adjacent residential zoning district or property used for residential purposes.

[8] Design Regulations.

- (a) Height. Any Tower-Based WCF shall be designed at the minimum functional height. The maximum total height of a Tower-Based WCF which is not located in the public right-of-way shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the Tower-Based WCF, including Communications Antennas and subsequent alterations.
- (b) Visual Appearance and Land Use Compatibility shall comply with the following:
  - (1) Tower-Based WCFs shall employ Stealth Design which may include the Wireless Support Structure being painted a certain color as approved by the Board or utilizing a galvanized finish.
  - (2) All Tower-Based WCFs and Communications Ancillary Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
  - (3) The Board of Supervisors shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent possible; and encourage sound engineering and land development design and construction principles, practices and techniques.

- [9] A Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.
- [10] The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal 100 feet plus the height of the proposed WCF structure or the applicable principal building setback, whichever is greater.

c. Fence/Screen.

- [1] A security fence having a height not to exceed eight (8) feet shall completely surround any Tower-Based WCF located outside the public Rights-of-Way, as well as Communications Ancillary Equipment, guy wires, or any building housing Communications Ancillary Equipment. The fence shall be consistent with the provisions of this Chapter. Gates shall be locked, except during such times as the communications equipment is manned by operations or maintenance personnel.
- [2] Landscaping shall be required to screen as much of a newly constructed Tower-Based WCF as possible. An evergreen screen shall be required to surround the communications ancillary equipment and fence. The screen shall consist of a row of evergreen trees which shall be planted at a maximum spacing of 8 feet, center to center. The evergreen screen shall be a minimum height of 4 feet at planting and shall be a species that is expected to grow to a minimum height of 15 feet at maturity. In addition, existing vegetation which would aid in screening at and around the site shall be preserved to the greatest extent possible.

d. Communications Ancillary Equipment.

- [1] Communications Ancillary Equipment shall not intrude into the minimum setback requirements for the district in which the WCF is located or exceed a maximum height of 15 feet.
- [2] Ground-mounted Communications Ancillary Equipment associated or connected with a Tower-Based WCF shall not be located within fifty (50) feet of a lot in residential use.
- [3] Communications Ancillary Equipment associated, or connected, with a Tower-Based WCF shall be placed underground or shall be constructed using Stealth Design. All ground-mounted Communications Ancillary Equipment, utility buildings and accessory structures shall be architecturally designed to be camouflaged from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures, or landscape.

[4] One single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing Communications Antenna space on the Tower-Based WCF.

- e. Additional Communications Antennas. As a condition of approval for all Tower Based WCFs, the WCF Applicant shall provide the Board of Supervisors with a written commitment that it will allow other service providers to Collocate Communications Antennas on the Tower-Based WCF where technically and economically feasible. To the extent permissible under state and federal law, the owner of a Tower-Based WCF shall not install any additional Communications Antennas without complying with the applicable requirements of this Chapter.
- f. Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- g. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating that such lighting is unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township.
- h. Each Person that owns or operates a Tower-Based WCF shall maintain general liability insurance coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence.
- i. Timing of Approval.

[1] Within thirty (30) calendar days of the date that an application for a special exception Tower-Based WCF is filed with the Zoning Officer, the Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.

[2] Unless extended by the applicant in writing, within one hundred fifty (150) days of receipt of a complete application for a Tower-Based WCF, the Board of Supervisors shall make a decision to approve or deny the proposed Tower-Based WCF and the Zoning Officer shall issue the required building and zoning permits authorizing construction of the WCF.

**4. Regulations Applicable to all Small Wireless Communications Facilities.**

**a. Location and development standards.**

[1] Small WCF are permitted by administrative approval from the Zoning Officer in all zoning districts, subject to the requirements of Sections 44-050.B.1 and 44-050.B.4.

[2] Small WCF in the public right-of-way requiring the installation of a new Wireless Support Structure shall not be located in front of any building entrance or exit.

[3] Applications for Small WCF in the public right-of-way requiring the installation of a new Wireless Support Structure shall require the applicant to demonstrate that collocation is not technically feasible or is not feasible due to the inability to acquire the requisite property rights.

[4] All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.

**b. Historic Structures. No Small WCF may be located within one hundred (100) feet of any historic structure.**

**c. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the right-of-way based on public safety, traffic management, physical burden on the right-of-way, and related considerations.**

**d. Obstruction. Small WCF and Communications Ancillary Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the right-of-way as determined by the Township.**

**e. Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Communications Ancillary Equipment, shall be removed at the sole expense of the owner of the tower, or in default of the owner of the tower, the owner of the private property upon which the tower is located within thirty (30) days of notification by the Township.**

**f. Design standards. All Small WCF in the Township shall comply with the requirements of the Middle Smithfield Township *Small Wireless***

*Communications Facility Design Manual*. A copy of such shall be kept on file at the Township office.

g. Application and Timing of Approval.

- 1) Applicants for Small WCF shall include information showing compliance with the Township's *Small Wireless Communications Facility Design Manual* in the application.
- 2) Within ten (10) calendar days of the date that an application for a Small WCF is filed with the Zoning Officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- 3) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
- 4) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, the Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

h. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- 1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
- 2) The operations of the Township or other governmental entity in the right-of-way;
- 3) Vacation of a street or road or the release of a utility easement; or
- 4) An emergency as determined by the Township.

- i. Reimbursement for right-of-way use. In addition to permit fees as described in this section, every Small WCF in the right-of-way is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the right-of-way. Such compensation for right-of-way use shall be directly related to the Township's actual right-of-way management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other right-of-way management activities by the Township. The owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

**C. E3. Emergency Service Facilities.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**D. E4. Essential Services/Utilities.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**E. E5. Helipad or Heliport.**

- 1) Applicant shall provide proof of approval from the Pennsylvania Bureau of Aviation prior to the issuance of a Zoning Permit.
- 2) No pad for any helipad or heliport shall be within three hundred (300) feet of any non-residential property line and five hundred (500) feet of any residential property line.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**F. E6 Principal Solar Energy System ("PSES")**

- 1) Criteria Applicable to all PSES.
  - a. PSES shall be permitted by conditional use only in the "I" Commercial Industrial Zoning District.
  - b. The project narrative shall include the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the principal solar energy system.
  - c. An affidavit or similar evidence of agreement between the property owner and the solar energy facility owner or operator demonstrating permission to apply for necessary permits for construction and operation of a principal solar energy system facility.
  - d. All PSES applications after the effective date of this Chapter shall be required to meet the terms and conditions of the Middle Smithfield Township Code of Ordinances, including but not limited to Stormwater

Management, Subdivision and Land Development, Building and Performance standards.

- e. Any physical modification to any existing PSES, whether or not existing prior to the effective date of this Chapter, that expands the PSES shall require approval under this Chapter. Routine maintenance or replacements do not require a permit.
- f. The PSES layout, design and installation shall conform to applicable industry regulations, and with all other applicable building, fire and life safety requirements.
- g. All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground to the greatest extent feasible.
- h. All PSES shall be situated to eliminate concentrated glare onto nearby structures or roadways.
- i. The owner of a PSES shall provide the Township 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.
- j. Signage shall comply with the prevailing sign regulations.
- k. The PSES owner and/or operator shall maintain a phone number throughout the life of the project for the Middle Smithfield Township Zoning/Code Enforcement Officer to contact with inquiries and verified complaints. The PSES owner and/or operator shall make reasonable efforts to respond to inquiries and complaints from the Township. A contact name, with knowledge of the system, must be provided to Middle Smithfield Township with updates due to employee advancement or turnover.
- l. The PSES shall meet the lot size requirements of the applicable zoning district.
- m. PSES shall comply with the following setback requirements:

[1] Building setbacks of the "I" District shall apply, except that when adjacent to any residential district or parcel, the solar panels must meet a minimum fifty (50) foot setback. Fencing shall comply with the setbacks of the "I" District.

[2] If the PSES occupies two or more adjacent properties, setbacks between the adjacent properties shall be waived along the shared property boundaries so that the PSES may be installed continuously and make the most efficient use of the project area.



- n. No PSES shall encroach within any wetlands, wetland buffer, watercourse buffer, steep slopes, floodplains, floodways and/or other sensitive natural areas identified during the conditional use hearing.

2) Ground-mounted PSES.

- a. The PSES shall meet the lot size requirements of the underlying zoning district.

- b. Setbacks

- [1] PSES shall comply with the setbacks of the underlying zoning districts for principal structures.

- [2] 50 feet from adjacent residential districts or structures.

- c. Ground-mounted PSES shall not exceed 15 feet in height.

- d. Impervious Coverage:

- [1] The area beneath the ground mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable Zoning District.

- [2] Gravel of paved access roads servicing the PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations.

- e. Screening and vegetation:

- [1] Street screening shall consist of slat fencing or shrubs, six feet to eight feet high when mature, that shall be planted every 15 feet of property abutting a public right-of-way. Shrubs shall be planted adjacent to or outside of the road right-of-way.

- [2] Residential buffer screening may be slat fencing or a row of evergreen conifers or broadleaf evergreens spaced in accordance with the chosen species to achieve a continuous visual barrier reaching six feet to eight feet in height within two years of planting.

Screening may be a combination of plantings and/or structures with prior approval by the Township.

- [3] Perimeter fence shall be placed between shrubs and solar panels.
  - [4] Widespread use of herbicides to control ground cover growth is prohibited.
  - [5] The Applicant shall agree to, execute and record a maintenance agreement ensuring the continued maintenance of the screening in a manner and form acceptable to the Township, including but not limited to the posting of a performance guarantee.
- f. The ground mounted PSES shall not be artificially lit except to the extent required for safety or applicable federal, state, or local authority.
- g. Unless agreed to by the easement or right-of-way holder, ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- h. Security.
- [1] All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
  - [2] A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence and on the surrounding the PSES informing individuals of potential voltage hazards.
  - [3] Access drives to solar inverter stations are required to allow for maintenance and emergency management vehicles. A recommended minimum cartway width is 20 feet.
  - [4] The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).

- [5] The applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the principal solar energy system facility.
- h. If a ground-mounted PSES is removed, any earth disturbance as a result of the removal of the ground-mounted solar energy system must be returned to an environmentally stable condition.
- i. Decommissioning.
- [1] An affidavit, or similar evidence, signed by the property owner and the PSES facility owner affirming a lease agreement with a decommissioning clause (or similar) and a successors and assigns clause. The decommissioning clause must provide sufficient funds to dismantle and remove the PSES, including all solar-related equipment or appurtenances related thereto, including but not limited to buildings, electrical components, roads and other associated facilities from the property. The successors and assigns clause must bind those successors and assigns to the lease agreement.
- [2] The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months and the owner has not initiated necessary remedial actions to return the PSES to a generating state. If the PSES owner fails to dismantle and/or remove the PSES within 18 months of cessation or abandonment, the Township may complete the decommissioning at the property owner's expense. The PSES owner must post a bond when the application for such a system is filed with the Township, in an amount determined by the Township's Engineer, to ensure the proper decommissioning.
- [3] The PSES owner shall, at the request of the Township, provide information concerning the amount of energy generated by the PSES in the last 12 months.
- [4] During the operation of the facility, a new engineer's estimate of cost for decommissioning shall be submitted every 10 years to the Township. Upon approval of the estimated costs by the Township's

Engineer, a revised surety shall be provided to the Township in the amount of 150% of the new estimate.

3) Roof and Wall Mounted PSES.

- a. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township that the roof or wall is capable of holding the load imposed on the structure.
- b. PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

**§ 044-060 F - Retail and Consumer Service Uses.**

**A. F1. Adult Use.**

- 1) Adult Use applies to “Adult Use, Bookstore”, “Adult Use, Live Entertainment Facility”, “Adult Use, Massage Parlor”, and “Adult Use, Movie Theater”.
- 2) The regulations on adult uses are intended to serve the following purposes, in addition to the overall objectives of this Chapter:
  - a. To recognize the adverse secondary impacts of adult uses that affect health, safety and general welfare concerns of the municipality and to limit the locations of adult uses where adverse secondary impacts can be minimized; and
  - b. To not attempt to suppress any activities protected by the free speech protections of the Commonwealth and United States Constitutions, but instead to control secondary effects through the criteria set forth below.
  - c. To recognize the adverse secondary impacts of adult uses that affect the health, safety and general welfare concerns of the Township. These secondary impacts have been documented in research conducted across the nation. These secondary impacts typically include, but are not limited to, increases in criminal activity, increases in activities that increase the risk of transmission of sexually transmitted diseases, increases in activities that increase the risk of transmission of other communicable diseases, increases in blight, decreases in the stability of residential neighborhoods, and decreases in property values for surrounding homes, and decreases in the marketability of nearby commercial business space. The research conducted across the nation concludes that adult uses typically involve insufficient self-regulation to control these secondary effects.

- 3) An adult use and parking and driveway areas that serve it shall not be located within 500 lineal feet of any residential zoning district.
- 4) An adult use and parking and driveway areas that serve it shall not be located within 1,000 lineal feet of any existing dwelling on another lot, nursing home, personal-care home, assisted living center, primary or secondary school, nursery school, place of worship or day-care center, or from any noncommercial recreation park open to the general public.
- 5) No Adult Use shall be located within 1,000 lineal feet from any existing adult use, measured from lot line to lot line.
- 6) No pornographic material, displays or words shall be placed in view of persons who are not inside of the adult use establishment.
- 7) This use shall comply with all applicable federal, state and Middle Smithfield Township laws, rules, ordinances, and/or regulations. As specific conditions of approval under this ordinance, the applicant shall prove compliance, where applicable, with the following state laws, as amended: the Pennsylvania Liquor Code<sup>37</sup>, Act 219 of 1990 (which pertains to sale or consumption of alcohol between 2:00am and 8:00am.), Act 207 of 1990 (which pertains to obscenity) and Act 120 of 1996 (which pertains to adult-oriented establishments and which limits enclosed viewing booths among other matters).
- 8) An adult use shall be prohibited in all zoning districts except where specifically allowed under the Table of Use Regulations Within Zoning Districts of the Zoning Ordinance<sup>38</sup>. An Adult use is a distinct use and shall not be allowed under any other use, such as a retail store or club.
- 9) A minimum lot area of 1.5 acres is required.
- 10) For public health reasons, private or semiprivate viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult videos or nude dancers.
- 11) No use may include sex acts or genital or sexual contact between employees and/or entertainers; or between employees/entertainers and customers.
- 12) Only lawful massages, as defined by state court decisions, shall be performed in a massage parlor.
- 13) All persons within any adult use shall wear nontransparent garments that cover their genitals and the female areola, except within an approved lawful “adult use, live entertainment facility.”
- 14) Any application for such use shall state the full legal name of an on-site manager who shall be responsible for ensuring compliance with this ordinance on a daily basis and who is authorized to accept enforcement

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<sup>37</sup> Editor’s Note: See 47 P.S. § 1-101 et seq.

<sup>38</sup> Editor’s Note: The Table of Use Regulations Within Zoning Districts is included as an attachment to this chapter.

notices and other legal documents on behalf of the owners. A telephone number shall be provided where the on-site manager can be reached during Township business hours. Such information shall be updated within two business days, in writing to the Zoning Officer, after any change in the person assigned as the on-site manager.

- 15) The use shall not operate between the hours of 12:00 a.m. midnight and 7:00 am. If state alcohol laws require that the Township allow a use to operate during later hours, then the adult use activities shall cease at 12:00 a.m. midnight.

**B. F2. Convenience Store and Gas Station.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

- 1) Minimum lot width of not less than 250 feet shall be provided along each street on which the lot abuts.
- 2) The sale of convenience-type products shall be limited to a maximum floor area of 5,000 square feet.
- 3) Access to roads shall be at least 200 feet from the intersection of any streets.
- 4) All activities except those to be performed at the fuel pumps and/or stations shall be performed within a completely enclosed building.
- 5) Fuel pumps and canopies shall be at least 20 feet from any ultimate street right-of-way.
- 6) All refuse shall be stored within a building or enclosed area.
- 7) Approval shall be secured from the Pennsylvania Department of Environmental Protection for the underground storage of fuel.
- 8) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.

**C. F3. Drive-In Business.**

- 1) A stacking lane serving a minimum of eight cars shall be provided for all drive-in windows which shall not be used for parking lot circulation aisles, nor shall it in any way conflict with circulation or parking.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**D. F4. Funeral Home.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**E. F5. Hotel/Motel/Inn.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

- 1) Minimum lot area shall be three (3) acres, unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern.
- 2) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.
- 3) Hotels may include accessory restaurant facilities, conference facilities, meeting rooms, spas, and tavern facilities.
- 4) Limited recreational amenities, such as pools and courts, are allowed. The use of these recreational amenities shall be restricted to the guests of the establishment.

**F. F6. Health Spa.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**G. F7. Night Club/Bar/Tavern.**

- 1) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 2) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.
- 3) The parking requirements provided for in this Chapter shall be complied with.

**H. F8. Open Air Business/Flea Market.**

- 1) Outdoor sales areas shall not encroach upon required parking areas and shall not interfere with traffic movement on the site.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.
- 3) The applicant shall provide the Township with plans to ensure adequate parking, emergency access, road access, sanitary facilities, refuse collection, noise control and cleanup after each day of operation.
- 4) All required permits and licenses must be applied for and issued to the applicant and all appropriate fees must be paid, including the appropriate flea market permit fee set forth in the Township fee schedule resolution.
- 5) There shall be no outdoor storage of supplies, goods or waste.
- 6) The appropriate area and number of off-street parking spaces shall be provided, and access to parking areas and emergency entrances shall be designated to minimize disturbance to adjoining properties. Flea market parking requirements for indoor facilities shall be a minimum of 1 space per 300 square feet of gross floor area and a maximum of 1 space per 200 square feet of gross floor area. The parking requirements for outdoor facilities shall

be a minimum of 1 space per 375 square feet of gross floor area of sales and service buildings and a maximum of 1.5 spaces per 375 square feet of gross floor area of sales and service buildings.

- 7) A provision shall be made for water supply and sewerage disposal in accordance with accepted practice and applicable State, County and Township regulations and standards.
- 8) The operation of a flea market must comply with all State, Federal and Local rules and law.
- 9) Signs advertising a flea market shall comply with the limitations set forth in this Chapter.
- 10) The proposed use and related structures shall be arranged and/or constructed in accordance with an overall plan and shall be designed as a single architectural style with appropriate landscaping and buffering in a form compliant with the Township ordinances and acceptable to the Township.
- 11) Unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern, Flea Markets shall meet the following requirements:

<b>Minimum (Min.) Lot Area (acres)</b>	<b>Min. Lot Width (feet)</b>	<b>Maximum (Max.) Lot Coverage (Percent)</b>	<b>Min. Lot Depth (feet)</b>	<b>Min. Front Setback (feet)</b>	<b>Min. Side Setback (feet)</b>	<b>Min. Rear Setback (feet)</b>
2 acres	15	30%	250	50	50	50

**I. F9. Race Track.**

- 1) Minimum lot area: 30 Acres.
- 2) The location of manure storage and processing facilities shall conform to the requirements of the Pennsylvania Nutrient Management Act<sup>39</sup>. Notwithstanding anything contained in this Ordinance to the contrary, all manure shall be managed in a manner that complies with the Clean Streams Law<sup>40</sup> and the practices prescribed by the Manure Management Manual.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**J. F10. Restaurant.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**K. F11. Restaurant, Drive-In.**

<sup>39</sup> Editor's Note: See 3 Pa.C.S.A. § 501 et seq.

<sup>40</sup> Editor's Note: See 35 P.S. § 691.1 et seq.



- 1) A stacking lane, serving a minimum of eight cars, shall be provided for all drive-in windows which shall not be used for parking lot circulation aisles, nor shall it in any way conflict with circulation or parking.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**L. F12. Service Business.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**M. F13. Shopping Center.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

- 1) Minimum lot area shall be 10 acres unless a greater and/or more restrictive requirement is provided for in this Chapter for the zoning district wherein the use is located, in which case the greater and/or more restrictive requirement shall govern.
- 2) Maximum lot coverage: 70%.
- 3) Maximum building coverage: 30%.
- 4) A traffic impact study shall be required.
- 5) No building or permanent structure, other than a permitted sign, shall be erected within 100 feet of a street line, or within 50 feet of any property line. No parking, loading, or service area shall be located less than 30 feet from any property line, with the further requirement that parking, loading or service areas shall not be permitted within the required buffered yard.
- 6) The proposed development shall be constructed in accordance with an overall plan and shall be designed as a single architectural style with appropriate architectural landscaping.
- 7) The distance at the closest point between any two buildings or groups of units of attached buildings shall comply with the applicable building code.
- 8) Lighting facilities that are dark sky compliant shall be provided and arranged in a manner that will protect the highway and neighboring properties from any direct glare of hazardous interference of any kind.
- 9) The buffer requirements of the Middle Smithfield Township Subdivision and Land Development Ordinance shall be met.
- 10) Access to roads shall be at least 200 feet from the intersection of any streets.

**N. F14. Store, Large Retail.**

- 1) This Use shall comply with all applicable Federal, State and Middle

Smithfield Township laws, rules, ordinances, and/or regulations.

- 2) Sufficient measures shall exist or be established to minimize any noise to neighboring dwellings from loading or unloading operations or outdoor machinery.

**O. F15. Store, Retail.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**P. F16. Vehicle Parking Lot or Garage.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**Q. F17. Vehicle Sales.**

- 1) Minimum lot area: 1 acre.
- 2) Minimum setback requirement from any lot line shall be 40 feet.
- 3) This use shall be the only principal use permitted on the lot with the exception of a F18 vehicle service and repair facility owned by the same person/entity.
- 4) Buffer screenings in accordance with §130-090 must be provided.
- 5) This use shall be a conditional use in the C1 & C2 zoning districts, a permitted by-right use in the I zoning district, and a prohibited use in all other zoning districts.
- 6) This use shall comply with all applicable federal, state and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**R. F18. Vehicle Service and Repair Facility.**

- 1) Junk vehicles or vehicles waiting repair shall not be stored outdoors for more than thirty (30) days.
- 2) No vehicles shall be stored within any setback area.
- 3) Minimum lot area: 1 acre.
- 4) Minimum setback requirement from any side yard lot line shall be 40 feet.
- 5) This use shall be the only principal use permitted on the lot with the exception of a F18 vehicle service and repair facility owned by the same person/entity.
- 6) Buffer screenings in accordance with §130-090 must be provided.
- 7) This use shall be a conditional use in the C1 & C2 zoning districts, a permitted use in the I zoning district, and a prohibited use in all other zoning districts.

- 8) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**S. F19. Veterinarian Office or Clinic.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**T. F20 Self-Storage Facilities.**

- 1) Minimum lot area: 2 acres.
- 2) Minimum setback requirement from any side yard lot line shall be 40 feet.
- 3) Buffer screenings in accordance with §130-090 must be provided.
- 4) All Self-Storage Facilities shall be surrounded by a privacy fence at least six feet in height.
- 5) Outdoor storage shall be limited to recreational vehicles, boats and trailers. No junk vehicles shall be stored. The outdoor storage area shall not be located in the required set back yards and shall not interfere with traffic movement through the complex.
- 6) Trash, radioactive or highly toxic substances, garbage, refuse, explosive materials, hazardous substances or similar items shall not be stored on the property.
- 7) Nothing shall be stored in interior traffic aisles, required off-street parking areas, loading areas or accessways.
- 8) This use shall be a conditional use in the C1 & C2 zoning districts, a permitted by-right use in the I zoning district, and a prohibited use in all other zoning districts.
- 9) This use shall comply with all applicable federal, state and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**U. F21. Medical Marijuana Dispensary.**

- 1) The use shall be set back a minimum of: 1) 1,000 feet from the property line of a primary or secondary school or child day care center. 2) 500 feet from the property line of a public park or playground, and 3) 250 feet from the property line of a residential district.
- 2) The use shall not have any outdoor activities, such as outdoor seating. All activity and aspects of the use shall be conducted indoors.
- 3) The use shall not be open for business beyond the maximum hours of 8am and 8pm.
- 4) The use shall comply with all other zoning requirements contained in this Chapter that would apply to a retail store.

- 5) The applicant shall demonstrate to the satisfaction of the Zoning Officer that there will be sufficient security measures.
- 6) The use shall not have drive-through operations.
- 7) A buffer planting is required when the use adjoins a residential use or district, and such buffer shall maintain the following minimum required plantings:
  - a. One flowering (8 to 10 feet in height minimum) or canopy tree (2 to 2½ inch caliper minimum) per 40 feet of buffer, on average;
  - b. Plus one evergreen tree (7 to 8 feet in height minimum) per 20 feet of buffer, on average;
  - c. Plus one shrub (24 to 30 inches in height minimum) per four (4) feet of buffer, on average.
- 8) The minimum lot size shall be two (2) acres.
- 9) Public water and sewer shall be required.
- 10) The Medical Marijuana Dispensary shall be a maximum of 3,000 square feet in gross floor area.

**§044-070 - G Industrial Uses.**

**A. G1. Building Material Sales.**

- 1) Storage yards shall be fully enclosed by fencing.
- 2) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**B. G2. Bus Maintenance/Storage Yard.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**C. G3. Extractive Operation, Water, Sand & Gravel Pit, Asphalt/Concrete Facility.**

- 1) If a mineral extraction use involves mining activities over more than one (1) acre of land in any calendar year, then the following additional requirements shall be met:
  - a. The applicant shall prove that a continuous route over roads will be available and will be used by trucks leaving the use that entirely involves roads with a minimum paved cartway width of 18 feet from the exit driveway of the mineral extraction use to reach Routes 209 or 402. This route shall consider any improvements that the applicant proposes to fund.
  - b. A copy of all information submitted to and received from federal and/or state agencies in accordance with their regulations, as amended, shall also be submitted to the Zoning Officer prior to the issuance of a use permit.

- c. A detailed and appropriate land reclamation and reuse plan of the area to be excavated shall be submitted to the Zoning Officer. Compliance with such plan shall be a condition of Township permits and/or approvals.
  - d. After areas are used for mineral extraction, those areas shall be reclaimed in phases to a non-hazardous and environmentally sound state permitting some productive or beneficial future use.
- 2) The following minimum setbacks shall apply for the excavated area of a mineral extraction use from adjacent property that is not owned by the owner or operator of the mineral extraction use:
  - a. Fifty (50) feet from the existing right-of-way of public streets and from all exterior lot lines of the property.
  - b. One hundred (100) feet from a non-residential principal building unless released by the owner thereof.
  - c. One hundred fifty (150) feet from the lot line of a dwelling in a residential or conservation district.
  - d. One hundred fifty (150) feet from the lot line of a publicly owned recreation area that existed at time of the application for the use or expansion of the use.
  - e. The excavated area of a mineral extraction use shall meet the setback of 50 feet from the average waterline of a perennial stream or the edge of a natural wetland of more than two (2) acres.
- 3) Truck access to the use shall be located to reasonably minimize hazards on public streets and dust and noise nuisances to residences.
- 4) Stone Quarry. Stone quarries whose ultimate depth shall be more than 25 feet shall provide the following:
  - a. A landscaped screening within the setback area as specified above shall be required. Such a screening shall be no less than 25 feet in width and setback from the excavation so as to keep the area next to the excavation planted in grass or ground cover and clear of any obstruction.
  - b. A chain link (or equal) fence at least 10 feet high and with an extra slanted section on top, strung with barbed wire, shall be placed at either the inner or outer edge of planting completely surrounding the area.
  - c. Warning signs shall be placed on the fence at intervals of no more than 100 feet.

- d. The activities and residual effects shall not create conditions that are significantly hazardous to the health and safety of neighboring residents.
  - e. A plan shall be submitted showing sequential phases of mining activities on the land. Mining activities shall be conducted on a maximum of 10 acres at a time. Reclamation shall be initiated on one phase before the next phase is opened for mining.
  - f. A plan shall be submitted showing how dust will be controlled.
- 5) Groundwater or spring water withdrawal, involving removal of an averaging of more than 10,000 gallons per day from a lot for off-site consumption. (Note: If the water is being utilized for uses on adjacent lots or as part of a central water system, it shall not be considered off-site consumption.)
- 6) Water studies [This section does not apply to Asphalt/Concrete Facilities].
- a. Purposes. To provide the Township with information to properly evaluate the impact a proposed development will have upon groundwater resources. To make sure that adequate water supplies will be available for the proposed use without negatively impacting adjacent uses dependent upon the same water source.
  - b. Credentials. The study shall be prepared, signed and sealed by a professional geologist or professional engineer with substantial experience in preparing similar studies. The written credentials of the person conducting the study shall be submitted to the Township.
  - c. The hydrogeologic study at a minimum shall include the following:
    - [1] A location map for the proposed development showing proximity to waterways, lakes and major roads.
    - [2] A proposed thirty-day average rate and maximum daily rate of groundwater or spring water withdrawal from each water source.
    - [3] A map showing water withdrawal points.
    - [4] An analysis of the impacts of the water withdrawal upon the groundwater supply and upon uses and creek levels within a one-half-mile radius of the project, including agricultural activities.

- [5] Consideration of the impacts during both normal conditions and drought conditions. Drought conditions shall be documented.
  - [6] The Board of Supervisors may require that the study include the construction of test wells to determine the impacts. The Board of Supervisors may require a draw-down test with monitoring of existing wells or a new monitoring well for a period of time (such as over 48 hours) necessary to determine the impacts upon neighboring wells. The level, rates, dates and times of water measurements shall be provided, and weather conditions shall be documented. The impacts upon a reasonable sampling of existing wells shall be recorded, provided that the owners of such wells grant permission for such studies.
  - [7] The study shall be professionally acceptable to the Township Engineer or his designee.
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- 7) The applicant is requested to offer a written statement of what, if any, guarantees, limitations or protections the applicant is willing to commit to address water issues. The applicant may, for example, offer to upgrade a neighboring well that becomes insufficient within a certain period of time, and may exempt certain shallow wells from such offer.
  - 8) The gallons of usage may be measured based upon average use over a thirty-day period.
  - 9) Minimum lot area: five (5) acres, plus any additional acreage that the Water Study may indicate is needed to show that the net withdrawal from the site will be neutral in its ability to be replenished by natural or other sources, up to a maximum of 100 acres.
  - 10) Any bottling or processing operations shall be considered a distinct use and shall meet the requirements of this Chapter.
  - 11) If the water will be trucked off-site, any area used for loading or unloading of tractor-trailer trucks shall be set back a minimum of 150 feet from any adjacent residential or conservation district.
  - 12) The applicant shall provide a written report by a professional engineer with substantial experience in traffic engineering. Such study shall analyze the suitability of the area street system to accommodate the truck traffic that will be generated in terms of structure, geometry, safety and capacity to accommodate the additional truck traffic. The applicant shall document the

structural condition of the public roads that will serve as the routes by trucks from the use, including core borings and pictorial documentation, for review by the Township Engineer. If it is determined that the roads are not able to support the proposed design loads coming from the proposed operation and/or will be expected to exceed to design capability of the original road design, then the Township shall require that the applicant post financial security to cover the costs of damage that may occur to public roads as a result of the trucks carrying mining materials.

- 13) Explosives that may be stored on site for use in extractive operations shall only be in strict conformance with state and federal law, as amended. Permits and licenses to store and/or warehouse explosives shall be provided to the Township prior to the issuance of a Zoning Permit.
- 14) Hours of operation. The Board of Supervisors, as a condition of conditional use approval, may reasonably limit the hours of operation of the use and of related trucking and blasting operations to protect the character of adjacent residential areas.
- 15) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**D. G4. Fuel Storage and Distribution.** This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**E. G5. Junkyard.**

- 1) Secure fencing with a minimum height of eight (8) feet shall be provided and well-maintained around all outdoor storage areas and the contents of such use shall not be placed or deposited to a height greater than the height of the fence or wall herein-prescribed and shall be stored in such a manner to insure that it will not be transferred out of the junkyard by wind, water or other natural causes.
- 2) The storage and/or dumping of trash, garbage, biodegradable material, toxic chemicals or nuclear wastes shall be prohibited.
- 3) All materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects or other vermin. When necessary, this shall be accomplished by enclosure in containers, raising of materials above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures or other means.
- 4) All vehicles must be drained of all liquids before they are placed in the junkyard. An impervious base, free of cracks and sufficiently large for draining liquids from all vehicles, shall be provided to prevent contamination of groundwater or nearby waterways. The base shall be sloped to drain to a sump or holding tank and liquid shall be removed from the site as often as is necessary to prevent overflow of the system. Curbing around the pad must be able to retain run-off from a 100-year, 24-hour storm. All hazardous liquids shall be properly disposed of according to state



regulations, as amended.

- 5) All batteries shall be removed from vehicles and properly stored in a suitable area on an impervious and properly drained surface.
- 6) Minimum lot area: 3 acres.
- 7) Maximum lot area: 5 acres.
- 8) The land area used for junkyard purposes shall not be exposed to public view from any public street or road by virtue of its location on a hillside or location on a plateau below street level.
- 9) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**F. G6. Landfill, Sanitary.**

- 1) Minimum Lot Area: 50 acres.
- 2) Minimum setback: 200 feet from lot line(s) and street line(s).
- 3) No burning or incineration shall occur except within an approved waste-to-energy facility.
- 4) Applicant shall prove to the satisfaction of the Board of Supervisors that the existing street network can handle the additional truck traffic, especially without bringing extraordinary numbers of trash hauling trucks through or alongside existing residential or residentially zoned areas and especially considering the width and slopes of streets in the Township.
- 5) The use shall be served by a minimum of two (2) paved access roads, each with a minimum cart way width of 24 feet. One of these roads may be restricted to use by emergency vehicles. The applicant shall document the structural condition of the public roads that will serve as the primary routes by trucks to the use, including core borings and pictorial documentation, for review by the Township Engineer. If it is determined that the roads are not able to support the proposed design loads coming from the proposed operation and/or will be expected to exceed to design capability of the original road design, then the Township shall require that the applicant post financial security to cover the costs of damage that may occur to public roads as a result of the trucks.
- 6) A sanitary landfill shall only be approved if the applicant proves that a continuous route over roads is available that entirely involves roads with a minimum paved cartway width of 18 feet between the exit driveway of the landfill and Routes 209 or 402.
- 7) A chain link or other approved fence with a minimum height of eight (8) feet shall surround active sanitary landfills to prevent the scattering of litter and to keep out children unless the applicant proves to the satisfaction of the Board of Supervisors that this is unnecessary. The Board shall require earth berms, evergreen screening and/or shade trees, as needed, be used to prevent landfill operations from being visible from dwellings. At a

minimum, a one hundred (100) foot buffer shall be provided along all property lines. The buffer shall meet the requirements of this Chapter.

- 8) An attendant shall be present during all periods of operation or dumping.
- 9) The operator of the use shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.
- 10) The operator shall regularly police the area of the facility and surrounding streets to collect litter that may escape from the facility or trucks.
- 11) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**G. G7. Manufacturing, other than “Manufacturing, Light”.**

- 1) The manufacture of fireworks shall not be allowed in the C1 District. Fireworks that may be manufactured, stored and/or warehoused in the Industrial District shall only be in strict conformance with state and federal law, as amended. Permits and licenses to store and/or warehouse explosives shall be provided to the Township prior to the issuance of a Zoning Permit.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**H. G8. Manufacturing, Light.**

- 1) The use shall be conducted within a completely enclosed building.
- 2) The use shall not create explosive or fire hazards.
- 3) The use shall not involve outdoor storage of materials that exceeds more than 50% of the building floor area.
- 4) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**I. G9. Resource Recovery Facility.**

- 1) Minimum lot area: Ten (10) acres.
- 2) Any such use shall be a minimum of two hundred (200) feet from any public road as measured from the ultimate right-of-way of the road and two hundred (200) feet from any property line. Additionally, any resource recovery facility shall be a minimum of three hundred (300) feet from any residential zoning district.
- 3) Parking areas, vehicle storage, maintenance or accessory buildings shall be a minimum of one hundred (100) feet from any property line.
- 4) Operation of a resource recovery facility shall at all times be in full compliance with the statutes of the Commonwealth, as amended, the Rules and Regulations of the Department of Environmental Protection (DEP), as amended, and all provisions of this Chapter and all other applicable

ordinances. In the event that any of the provisions of this Chapter are less restrictive than any present or future Rules or Regulations of DEP, the more restrictive DEP regulations shall supersede and control.

- 5) Litter control shall be exercised to confine blowing litter to the work area and a working plan for cleanup of litter shall be submitted to the Municipality. To control blowing paper, there shall be erected a fence having a minimum height of six (6) feet, with openings not more than three inches by three inches (3" x 3"), feet inside all boundaries. The entire area shall be kept clean and orderly.
- 6) Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized dumping, every resource recovery facility shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations. Such barricade shall be at least six (6) feet high and shall be kept in good repair and neatly painted in a uniform color. This limitation of access may be waived by the Governing Body for recycling drop-off stations where public access is essential for the operation.
- 7) Unloading of municipal waste shall be continuously supervised by a facility operator.
- 8) Hazardous waste, as included on the list of hazardous waste maintained by the Department of Environmental Protection (DEP), shall not be disposed of in a resource recovery facility.
- 9) All parts of the process including unloading, handling and storage of municipal waste shall occur within a building. However, certain separated, non-putrescent, recyclable materials like glass, aluminum, and other materials may be unloaded, handled or stored outdoors when authorized by the Governing Body. All outdoor storage shall meet the standards of other Subsections hereof.
- 10) Paper shall be stored within an enclosure.
- 11) Any materials stored outdoors shall be properly screened so as not to be visible from any adjacent streets or properties.
- 12) No material shall be placed or deposited to a height greater than the height of the fence or wall herein prescribed.
- 13) No municipal waste shall be processed or stored at a recycling facility. For types of resource recovery facilities other than a recycling facility, municipal waste shall not be stored on the site for more than seventy-two (72) hours.
- 14) A contingency plan for disposal of municipal waste during a plant shutdown must be submitted to the Zoning Officer and approved by the Governing Body.
- 15) For a solid waste transfer facility, all loading and unloading of solid waste

shall only occur within an enclosed building and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within enclosed buildings or enclosed containers.

- 16) Leachate from the municipal waste and water used to wash vehicles or any part of the operation shall be disposed of in a manner in compliance with Pennsylvania Department of Environmental Protection's (DEP) regulations, as amended. If the leachate is to be discharged into a municipal sewage treatment plant appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall the leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the DEP regulations.
- 17) Waste from the resource recovery facility process shall be stored in such a manner as to prevent it from being carried from the site by wind or water. Such residual waste shall be located at least two hundred (200) feet from any property line and stored in leak proof and vector proof containers. Such residual processed waste shall be disposed of in a sanitary landfill approved by Pennsylvania Department of Environmental Protection (DEP) or in another manner approved by DEP.
- 18) A fifty (50) foot dense evergreen buffer shall be maintained as a permanent visual screen. The visual screen shall begin at the ground and extend to the height of the fence. Evergreens shall be six (6) to eight (8) feet in height when planted. The lower branches of mature trees shall not be removed. The buffer shall meet the requirements of this Chapter.
- 19) A traffic impact study and a water impact study shall be required.
- 20) A certificate of pollution insurance in compliance with all applicable sections of the Pennsylvania Municipalities Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988)<sup>41</sup>, as amended, shall be required on an annual basis.
- 21) Recycling collection center as an accessory use, including being an accessory use to a commercial use, an industrial use, a public or private primary or secondary school, a place of worship or a Township-owned use, subject to the limitations of this section.
- 22) This use shall not be bound by the requirements of a solid waste disposal facility.
- 23) All materials shall be kept in appropriate containers, with appropriate sanitary measures and frequent enough emptying to prevent the attraction of insects or rodents and to avoid fire hazards.
- 24) Materials to be collected shall be of the same character as the following materials: paper, fabric, cardboard, plastic, metal, aluminum and glass. No garbage shall be stored as part of the use except for that generated on-site

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<sup>41</sup> Editor's Note: See 53 P.S. § 4000.101 et seq.

and that accidentally collected with the recyclables. Only materials clearly being actively collected for recycling may be stored on-site.

- 25) The use shall only include the following operations: collection, sorting, baling, loading, weighing, routine cleaning and closely similar work. No burning or land filling shall occur. No mechanical operations shall routinely occur at the site other than operations such as baling of cardboard.
- 26) The use shall not include the collection or processing of pieces of metal that have a weight greater than 50 pounds except within the industrial district.
- 27) The use shall include the storage of a maximum of 50 tons of materials on the site if the use is within a residential district and within 200 feet of an existing dwelling.
- 28) Any composting of manure shall be restricted to lots of five (5) acres or greater. Such composting shall comply with the published manure management standards of the Pennsylvania State University Cooperative Extension Service, as amended.
- 29) All composting shall be conducted in such a manner that does not create a fire hazard, or create a rodent or disease-carrying insect hazard, and does not cause noxious odors off of the subject property.
- 30) Composting shall be permitted as an accessory use, provided that the composting is limited to biodegradable vegetative material, including trees, shrubs, leaves and vegetable waste. Such composting shall be kept free of other garbage and animal fats.
- 31) Setbacks. Composting areas of greater than one (1) acre shall be set back 75 feet from abutting residential lot lines.
- 32) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**J. G10. Slaughterhouse.**

- 1) All storage and processing shall be conducted inside of a building.
- 2) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**K. G11. Logistics Center.**

- 1) Minimum lot area: 10 Acres.
- 2) Trucks with compressors running 24 hours a day shall be located within a quadrangle of buildings or walls.
- 3) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

- 4) Large Logistics Centers shall be permitted as a conditional use only within the I Industrial Zoning District. Small Logistics Centers shall be permitted by conditional use in the C2 and I Zoning Districts.
- 5) Site Improvement Setbacks. All site improvements associated with Small Logistics Centers and/or Large Logistics Centers shall be setback from property lines and street right-of-way lines in accordance with the following equation, rounded up to the nearest foot. For the purposes of this section, the limits of site improvements shall be considered the limits of proposed earth disturbance activities. Access drives and their associated earth disturbance activities shall be allowed within/through the site improvement setback area. In the event a more restrictive setback requirement than this requirement applies to the subject property and/or use under the Middle Smithfield Township Zoning Ordinance, the more restrictive setback requirement shall control.

Minimum Required Site Improvement Setback (feet) =  $\lceil 0.0002 \times \text{Sum of Building Sizes (in square feet)} \rceil + 50$

- 6) Woodland Removal. For Small Logistics Centers and Large Logistics Centers, no more than 50% of the existing mature woodlands on the lot of the Logistics Center shall be removed.
- 7) Driveway Location. The centerline of all proposed access drives shall be located a minimum of seventy-five feet (75') from any property line for Small Logistics Centers, and one hundred fifty feet (150') from any property line for Large Logistics Centers.
- 8) Queuing.
  - a. For Small Logistics Centers and Large Logistics Centers, adequate queuing space shall be provided within the property boundaries to prevent the stacking of vehicles on or along public streets. The Applicant shall demonstrate to the satisfaction of the Township Engineer that there is adequate queuing space provided.
  - b. For Small Logistics Centers and Large Logistics Centers, queuing, or circling of vehicles, on public streets immediately pre- or post-entry to the site is strictly prohibited.
- 9) Parking. For Small Logistics Centers and Large Logistics Centers, off-street parking spaces ("stalls") shall be provided in accordance with the applicable requirements of Article V in this Chapter. The number of proposed tractor-trailer loading docks/bays shall be clearly indicated and summarized on the Plan and/or application. Computations shall be provided on the Plan for the required and proposed number of 'regular'

parking spaces, tractor-trailer spaces, trailer spaces, and stacking/storage spaces. The type of parking spaces shall be clearly labeled on the Plan and/or application. For parking calculations, the “employee on the largest shift” shall be considered the “maximum number of individuals on the site” as noted herein.

- 10) Outdoor Storage. For Small Logistics Centers and Large Logistics Centers, no outdoor storage of goods, products, materials, trash, garbage, refuse, explosive or flammable materials, hazardous substances, animals, animal carcasses or skins, or similar items shall be permitted.
- 11) Individuals on Site. For Small Logistics Centers and Large Logistics Centers, the maximum number of proposed individuals on the site to be present at any given time (during the largest shift) shall be clearly specified on the Plan and/or application. This includes all employees, office workers, managers, staff, operators, laborers, contractors, drivers, patrons, etc.
- 12) Trips. The maximum number of proposed trips for Small Logistics Centers and Large Logistics Centers, broken down for each type of vehicle to use the facility and then combined, shall be clearly specified on the Plan and/or application. These figures shall be the maximum number of allowed trips for the property and use for the life of the development and use, unless otherwise approved by the Township.
- 13) Traffic Impact Study. All applications for a Logistics Center, both Small Logistics Centers and Large Logistics Centers, shall be required to provide a Traffic Impact Study of a scope and form deemed acceptable to the Township Engineer. Applicants shall be required to install all required traffic improvements and all recommended and/or suggested on-site traffic improvements provided for within the study as deemed necessary by the Township and/or Penn DOT.
- 14) Turning Templates. For Small Logistics Centers and Large Logistics Centers, to verify vehicle turning movements at the entrance and exit access drive and street intersections and throughout the site, turning template exhibits shall be provided for the largest anticipated vehicle to access the site.
- 15) Anti-Idling Signs. For Large Logistics Centers, No Idling signs (PennDOT R7-100) indicating a three-minute diesel truck engine idling restriction shall be installed along tractor-trailer access drives and loading/unloading docks at minimum one hundred foot (100') intervals.
- 16) Disposal of Pollutants. For Large Logistics Centers, the use shall include an appropriate and Township approved system to contain and properly dispose of any fuel, grease, oils or similar pollutants that may spill or leak

where such substances are stored or where vehicles are fueled, repaired, or maintained. The Applicant shall demonstrate to the satisfaction of the Township Engineer that the proposed system will adequately contain and properly dispose of such pollutants.

- 17) Berms. For Large Logistic Centers, earthen berms shall be provided around the exterior of all parking spaces and areas for tractor-trailers and loading/unloading areas. If these areas are in a cut greater than fifteen feet (15') below the adjacent grades, then berms are not required. The berms shall meet the following criteria:
  - a. minimum height shall be fifteen feet (15') above the adjacent grade of the edge of bituminous paving;
  - b. minimum top width shall be five feet (5');
  - c. maximum side slopes shall be two feet horizontal to one foot vertical (2:1); and
  - d. such berms shall include landscaping with the following minimum required plantings:
    - [1]One flowering (8 to 10 feet in height minimum) or canopy tree (2 to 2½ inch caliper minimum) per 40 feet, on average;
    - [2]Plus one evergreen tree (7 to 8 feet in height minimum) per 20 feet, on average;
    - [3]Plus one shrub (24 to 30 inches in height minimum) per four (4) feet, on average.
- 18) Routing Plan. For Large Logistics Centers where tractor-trailers will be the largest anticipated vehicle to access the site, a Routing Plan shall be presented that depicts the proposed routes along streets from the site to the boundary of the Township and from the Township boundary to the site, any existing signs relating to tractor-trailer traffic, and proposed signs restricting access to Township streets. The Applicant shall also present an implementation and education plan and program that the Applicant will utilize to ensure compliance with the proposed Routing Plan by its employees, patrons, representatives and/or others accessing the site. The Applicant shall be responsible to purchase and install proposed signs deemed necessary by the Township to ensure compliance with the Routing Plan. Signs shall also be installed at all applicable exit access drives directing drivers to the appropriate route(s). The Applicant shall be responsible for any deviation from the Routing Plan by drivers during the operations of the site and shall sign an acknowledgement and/or similar agreement wherein the Applicant shall agree to require and ensure that the Routing Plan is complied with, to enforce the Routing Plan and to be responsible for a fee to the Township in the event of noncompliance with the Routing Plan.



- 19) Colors. For Large Logistics Centers, building and retaining wall colors shall be low-reflective, subtle, or earth tone and subject to Township review. Fluorescent and metallic colors are not permitted.
- 20) A Logistics Center may include facilities that provide locations for drivers to rest and plan operations (next leg of travel).
- 21). All Logistics Centers shall include and/or install a facility/station wherein any and all accumulated snow and ice will be removed from the trucks and trailers prior to leaving the property.
- 22) All Logistics Centers shall include and/or install noise mitigation improvements and measures, including but not limited to supplemental landscape buffers and berms, in addition to those required in Section 17.d hereinabove, and/or other noise mitigation improvements along property boundaries bordering and/or facing residential uses and/or other non-industrial and/or non-commercial use, in a manner and form deemed acceptable to the Township Engineer.
- 23) All Logistics Centers shall be required to be served by public or adequate community septic and water systems and shall include bathrooms within the building(s).

**L. G13 Medical Marijuana Grower/Processor.**

- 1) The applicant shall demonstrate to the satisfaction of the Zoning Officer that there will be sufficient security measures.
- 2) The operations shall be conducted indoors.
- 3) The use shall be setback a minimum of: 1) 1,000 feet from the property line of a primary or secondary school or child day care center, 2) 500 feet from the property line of a public park or playground, and 3) 250 feet from the property line of a residential district.
- 4) The use shall comply with all of the same zoning requirements that would apply to a Manufacturing use.
- 5) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

**§ 044-080 H - Accessory Uses and structures**

**A. H1. Accessory Structure.** Accessory structures shall only be allowed as accessory to a principal structure within the terms of this Chapter. All accessory structures shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.

- 1) **Accessory Structures for Non-Residential Principal Structures.**
  - a. Building height and setback requirements shall meet the requirements for the principal use in the district in which it is located

in.

- b. Outside storage and display areas shall occupy an area of less than one half (1/2) the existing building coverage.
- c. Outside storage areas shall be shielded from view from all public streets and adjacent residential lots, except that in the case of a retail commercial use with over fifty thousand (50,000) square feet of gross floor area, the Board of Supervisors may allow an outdoor area for display of retail merchandise that fronts on PA 209 to be visible from PA 209.
- d. Outside display shall be shielded from any adjacent residential uses.
- e. Outdoor storage or display shall not occupy any part of any of the following: the existing or future street right-of-way, sidewalk or other area intended or designed for pedestrian use or required parking area.
- f. No such storage or display shall occur on areas with a slope in excess of 25% or within the one-hundred-year floodplain.
- g. Any outdoor storage of more than five (5) tires on a lot in a residential district or more than fifty (50) in a non-residential district shall only be permitted as part of a Township-approved junkyard.
- h. Accessory structures, outside storage and display areas shall not encroach upon the front yard or any buffer yard.

2) **Fences and Walls.**

- a. Any fence or wall shall be durably constructed and well-maintained. Fences that have deteriorated shall be repaired, replaced or removed.
- b. No fence, wall or hedge shall obstruct the sight requirements elsewhere in this Chapter.
- c. Any fence located in the required minimum front yard of a lot in a residential district shall be an open-type of fence (such as picket, wrought iron, chain link or split rail) with a minimum ratio of 1:1 of open to structural areas and not exceed five feet in height.
- d. On a corner lot, a fence or wall shall meet the same requirements along both streets as would apply within a front yard. A fence shall not be required to comply with minimum setbacks for accessory structures.
- e. A fence located in a residential district in a location other than a required front yard shall have a maximum height of 6 feet, except a maximum of height of 12 feet shall be permitted where the applicant proves to the Zoning Officer that such taller height is necessary to protect public safety around a specific hazard.
- f. No fence shall be built within an existing street right-of-way. A

fence may be constructed without a setback from a lot line except where buffer plantings are required elsewhere in this Chapter. Where no setback is required, a one-foot or greater setback is recommended to provide for future maintenance of the fence and to account for possible inaccurate lot lines.

- g. Barbed wire shall not be used as part of fences around dwellings. Electrically charged fences shall only be used to contain farm animals and shall be of such low intensity that they will not permanently injure humans. No fence or wall shall be constructed out of fabric, junk, junk vehicles, appliances, drums or barrels.
- h. Engineered retaining walls...?
- i. No wall of greater than four feet shall be located in the required front yard in a residential district except as a backing for a permitted sign as permitted elsewhere in this Chapter.
- j. A wall in a residential district outside of a required front yard shall have a maximum height of four feet if it is within the minimum accessory structure side yard setback. A wall exceeding four feet shall be set back a minimum of
- k. Walls that are attached to a building shall be regulated as a part of that building.

3) **Accessory Structures to Residential Principal Structures.**

- a. A garage for personal motor vehicles, a storage shed for household items, a gazebo, a private greenhouse and similar accessory buildings shall be allowed. These structures may be placed in the side and rear yards at a distance from property lines of no less than five (5) feet, unless an easement limits the ability to place the accessory structure that close to the property line, provided that the size of the structure is no more than one hundred sixty (160) square feet. Structures in excess of one hundred sixty (160) square feet shall be setback a minimum of (10) feet from the property line, unless an easement limits the ability to place the accessory structure that close to the property line.
- b. A side yard setback is not required for a structure that is accessory to a dwelling from a lot line along which two dwellings are attached (such as a lot line shared by twin dwellings). However, such structure shall still meet the minimum side yard on a lot line where the dwellings are not attached.
- c. Accessory structures shall not be located within a front yard nor within any yard required to be equal in width to a front yard along a street on a corner lot.

4) **Recreational Vehicles.** No such vehicle shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot or in

any location not approved for such a use, except for special occasions

5) **Swimming Pool.**

- a. No person, owner or occupant of land shall install or maintain a swimming pool or other artificial body of water capable of being filled to a depth exceeding twenty-four (24") inches at the deepest or lowest point unless a permit is first obtained from the zoning officer and the required plans and information are filed, together with required permit fees. Wading pools, which are exempt from the provisions of this Ordinance, are those temporary pools of plastic, light metal, or other light duty material which do not exceed twenty-four (24") inches in depth at the deepest or lowest point, and, in addition, which are completely emptied of water when not in use.
- b. Each pool or water area and the decking, paving or coping surrounding it or associated with it shall be located not less than the front building line and no closer than ten (10) feet to any property line, unless an easement limits the ability to place the swimming pool that close to the property line.
- c. Building permits are required prior to the construction, alteration, remodeling, or additions to a swimming pool or other artificial water areas not specifically exempt from this Ordinance. Proposed grading associated with the installation of a new pool shall be shown on all submitted permit plans.
- d. Any pool or water area subject thereto shall be suitably designed, located, and maintained so as not to become a nuisance or hazard either to adjoining property owners or the public generally. All detachable ladders shall be removed when the pool is not in use for an above ground pool. Outdoor lighting, if used, shall be installed in such a way as to be shielded and not to reflect toward or into the interior of adjacent residential properties.
- e. A minimum isolation distance of ten (10) feet shall be required between a swimming pool and any sewage disposal system.
- f. No pool shall be located under any electrical power lines (including service lines), and the pool must be located at least ten (10) feet (measured horizontally) from such power lines.
- g. Should the owner abandon the pool, a demolition permit shall first be obtained from the Zoning Officer.
- h. This Use shall comply with any barrier requirements of the Uniform Construction Code.

6) **Satellite Dish Antenna, Aerials, Masts, Radio and Television Facilities and Flagpoles.**

- a. Such structures shall be set back from all property lines a distance equal to the height of the structure.

- b. Such structures shall be anchored to the ground in accordance with building code requirements.
- c. Such structures may have a maximum height of up to seventy-five (75) feet.
- d. The following additional regulations shall apply to satellite dish antennas:

[1] Satellite dish antennas 1 meter (39.37") or less in diameter are subject to the following regulations:

(a) A satellite dish shall not be located within the front yard of a residential structure, unless the applicant demonstrates that the location of the satellite dish in the rear or side yard would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.

(b) Roof Mounting.

(1) For residential uses, the antenna shall be located on a portion of the roof sloping away from the front of the lot and no part thereof shall project above the ridge line, unless the applicant demonstrates that anchoring the antenna to the rear portion of the roof would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.

(2) If the total height of the satellite dish antenna and mast will exceed twelve (12) feet above the roof line, the applicant must provide a certified statement from a registered engineer that the proposed installation meets or exceeds the building code requirements. This shall include documentation of the load distributions within the building's support structure.

(c) A satellite dish antenna shall not be mounted on a chimney.

(d) Historic properties. The location of satellite dishes on a designated or eligible historic site, building,

structure, or object is subject to review by the Township and other regulatory agencies having jurisdiction over said historical properties.

[2] Satellite dish antennas greater than 1 meter (39.37”) in diameter are permitted by Conditional Use only, subject to the following regulations:

- (a) When separately supported, the total height of the satellite dish antenna shall not exceed twelve (12) feet.
- (b) When separately supported, the satellite dish antenna shall be screened by staggered plantings of evergreen trees or hedge which present a solid visual barrier to any adjoining residential uses and to the street.
- (c) Historic properties. The location of satellite dishes on a designated or eligible historic site, building, structure, or object is subject to review by the Township and other regulatory agencies having jurisdiction over said historical properties.
- (d) Roof mounting of any satellite dish antenna is only permitted subject to the following:
  - (1) The applicant must demonstrate that anchoring the antenna to the ground would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.
  - (2) A satellite dish antenna shall not be mounted on a chimney.
  - (3) If the total height of the satellite dish antenna and mast will exceed twelve (12) feet above the roof line, the applicant must provide a certified statement from a registered engineer that the proposed installation meets or exceeds the building code requirements. This shall include documentation of the load distributions within the building's support structure.

[3] For commercial uses, for antennas greater than 1 meter (39.37”) in diameter, the applicant must provide a certified statement from a registered engineer that the proposed installation meets or exceeds the building code requirements. This shall include documentation of the load distributions within the building's support structure.

[4] Residential installations:

- (a) The diameter of a satellite dish antenna shall not exceed nine (9) feet when proposed as an accessory use to a residential use or to any use in CON, RR, R1, R2 and R3 districts.

[5] Commercial installations:

- (a) The diameter of a satellite dish antenna shall not exceed twenty-three (23) feet when proposed as an accessory use to any use in the C1, C2 and I districts.

**B. H2. Accessory Use.** The following shall be allowed as an accessory to a principal dwelling, subject to and conditional on complying with the following requirements.

1) **Parking.**

- a. Parking for motor vehicles, provided that there shall not be exterior parking of more than one commercial vehicle. A maximum of 2 commercial vehicles may be parked on the lot. No truck parked on the lot shall have an aggregate gross vehicle weight of greater than 14,000 pounds, unless it will be kept a minimum of 100 feet from the lot line of any other dwelling. One school bus may be parked on a residential lot if the resident is a school bus driver and is required to bring the vehicle home.
- b. Repairs of a truck with an aggregate gross vehicle weight of over 14,000 pounds aggregate gross vehicle weight shall not occur on a residential lot. Repairs of motor vehicles that are not owned or leased by a resident of the lot or his/her relative shall not occur on a residential lot.

2) **Yard Sales.**

- a. A yard sale shall not include wholesale sales or sale of new merchandise of a type typically found in retail stores.
- b. Each dwelling may have a maximum of six (6) garage sales in any calendar year. Each sale shall be at least one (1) month apart. Each sale shall last a maximum of three (3) days.
- c. The use shall be clearly accessory to the principal use.

- d. No outdoor storage shall be permitted when the sale is not in operation.
- e. A Township permit shall be required.
- f. All items shall be placed and offered for sale within the confines of the property described in the permit.
- g. No toxic substances or alcoholic beverages shall be offered at a garage sale.
- h. A “Community Yard Sale” shall be considered a special event. A “Community Yard Sale” means more than one family placing items for sale at a communal location such as, but not limited to, a clubhouse or church.

**C. H3. Agriculture, Retail.**

- 1) The Agriculture, Retail use shall be an accessory use incidental to, and at the location of, one of the following uses: Agriculture, General, Agriculture, Intensive, or Nursery.
- 2) A minimum annual average of 50% of the products offered for retail sales shall be limited to products produced on the property by the Agriculture, General and/or Agriculture, Intensive and/or Nursery uses which shall be determined by sale receipts. The landowner shall keep sufficient records in order to establish compliance with this limitation.
- 3) Any structures erected for the Agriculture, Retail accessory use that are not permanent in nature shall be disassembled during seasons when products are not offered for sale.
- 4) No Agriculture, Retail accessory use structure shall be located closer than 50 feet from a lot line of an existing dwelling.
- 5) No Agriculture, Retail accessory use shall occupy more than 5,000 square feet of gross floor area.
- 6) This Use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances, and/or regulations.

**D. H4. Bus Shelter.**

- 1) Bus shelters shall be allowed in all districts by right, if the shelter will be regularly served by a school bus or a regularly scheduled local public transit bus route.
- 2) The location of any bus shelter shall be subject to approval by the Township.
- 3) A bus shelter shall have a maximum floor area of 60 square feet and be firmly anchored to the ground, with a hard surface.



- 4) A bus shelter shall be constructed primarily using clear shatter-resistant materials.
- 5) A bus shelter shall not obstruct a clear sight triangle or clear zone in conformance with Penn DOT Design Manual Chapter 12 or succeeding policy guidance.
- 6) Unused bus shelters must be removed within 30 days after the intended use is no longer occurring.

**E. H5. Day Care Center, Exempt Premises.** See definition under “Day Care”. The use shall comply with any applicable Local, State and Federal regulations, as amended, and H8 Home-based Business Requirements.

**F. H6. Dwelling, Accessory Apartment.**

- 1) Except for a Dwelling, Accessory Apartment developed as part of a TND, all other Dwelling, Accessory Apartments shall only be occupied by a relative of the owner-occupant of the principal dwelling unit.
- 2) Accessory apartments may contain separate cooking, sleeping, living and bathroom facilities.
- 3) There shall be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family dwelling or which would otherwise detract from the single-family character of the neighborhood.
- 4) No more than one (1) accessory apartment shall be permitted per single-family detached dwelling, per lot.
- 5) Each accessory apartment shall be registered with the Zoning Officer, who shall keep a record of its use to ensure compliance with this section.
- 6) Access for the accessory apartment shall be restricted to the existing access to the lot; no additional or multiple driveways will be permitted.
- 7) The applicant shall establish a legally binding mechanism in a form acceptable to the Township that will prohibit the use of the accessory apartment as a separate dwelling unit after the relative no longer resides within the unit. Such mechanism shall also be binding upon future owners and recorded against the property.

**G. H7. Homeless Shelter, Temporary.**

- 1) The Homeless Shelter, Temporary shall be sponsored and supervised by a government agency, place of worship, or a nonprofit organization.
- 2) The maximum number of residents shall be indicated at the time of application, and that number, not including employees, shall not exceed any applicable minimum space requirements.
- 3) Applicant must prove that there are adequate sanitary facilities and supervision to serve the temporary use.
- 4) This Use shall comply with all applicable Federal, State and Middle

Smithfield Township laws, rules, ordinances, and/or regulations.

**H. H8. Home-Based Business/Home Occupation.**

- 1). LOW-IMPACT HOME BASED BUSINESS – a business 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, and that meets the following requirements:
  - a. The use shall not customarily attract customer, patient or client vehicle traffic to the site for business persons, except for an allowed type of accessory child day care use;
  - b. The use shall not involve service to the site by tractor-trailer trucks; and
  - c. The use shall not involve more than one truck or bus that customarily operates from the property or is stored on the property for home-based business purposes.
  - d. There shall be no more than one (1) employee associated with the use on the property.
  - e. Shall not alter the residential character of the neighborhood.
- 2) NO-IMPACT HOME-BASED BUSINESS - 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. The business or commercial activity must satisfy the following requirements, in addition to the requirements for a Low-Impact Home Based Business:
  - a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - b. The business shall employ no employees other than family members residing in the dwelling.
  - c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - d. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - e. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - f. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in

the neighborhood.

- g. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable living area.
- h. The business may not involve any illegal activity.

**I . H9. Outside Storage.**

- 1) Outdoor storage or display shall not occupy any part of any of the following: the existing or future street right-of-way, sidewalk or other area intended or designed for pedestrian use or required parking area.
- 2) No such storage or display shall occur on areas with a slope in excess of 25% or within the one-hundred-year floodplain.
- 3) Shall not be permitted as an accessory use to residential uses.
- 4) Tire storage.
  - a. For tires not mounted on a motor vehicle, any outdoor storage of more than five (5) tires on a lot in a residential district or more than 50 tires in a non-residential district shall only be permitted as part of a Township-approved junkyard.
  - b. Where allowed, any storage of used tires shall involve stacks with a maximum height of 15 feet and that cover a maximum of 400 square feet. Each stack shall be separated from other stacks, and from all lot lines by a minimum of 25 feet. If tires are stored on a lot for more than six months, they shall be stored within a building or trailer.
  - c. The operator of a lot involving tire storage shall prove that the tires are stored in a manner that minimizes public health hazards from the breeding of vectors in accumulated water and/or that the site is regularly sprayed to minimize vectors.

**J. H10. Pets, Keeping of (Animals, Domestic) and (Animals, Exotic).**

- 1) A non-commercial kennel shall be established as an accessory use only.
- 2) No more than a combined total of five (5) dogs, cats or other similar-sized domestic animals shall be kept by residents of each dwelling unit. Animals of less than six months of age shall not count toward this numeric limit.
- 3) Animal shelters and runs shall not be located closer to the property line than fifteen (15) feet or the minimum yard requirement, whichever is greater.
- 4) Animals shall not be permitted to run loose onto streets or the property of others
- 5) Animal shelters and runs shall be properly cleaned and maintained to prevent the creation of any nuisance, health hazard or odor, as regulated by this Chapter.
- 6) Except for the sale of young animals born to pets kept under the permanent care of the occupants, no animals shall be sold or offered for sale on the

property.

- 7) This use shall comply with all applicable Federal, State and Middle Smithfield Township laws, rules, ordinances and/or regulations.
- 8) Up to three chickens or other similarly sized poultry shall be allowed as an accessory use to a single family detached dwelling on a lot of more than  $\frac{1}{4}$  acre, subject to the following restrictions
  - a. A coop is required. Minimum size is 15 square feet. The coop shall be stationary, secure, roofed and enclosed in a way that contains the chickens. A coop requires the issuance of a zoning permit and must meet accessory structure setbacks.
  - b. It shall be unlawful to allow chickens to run at large upon adjoining properties. A coop must include an attached or detached run or fenced in area.
  - c. Manure shall not be allowed to accumulate to the degree that it becomes a public health hazard or an odor, insect or other hazard.
  - d. A rooster is not permitted.

**K. H11. Recycling Collection Center.**

- 1) Setback requirements shall meet the requirements for the principal use in the district in which it is located in.
- 2) Outside storage is not allowed.
- 3) Owners of the recycling collection centers shall have a sufficient pickup schedule to insure that material does not overflow the containers provided. If material continues to overflow the containers after receiving three (3) notices from the Township the permit for the recycling collection center may be revoked and the recycling collection center removed at no expense to the Township.
- 4) There shall be no employees at the property.
- 5) Such an accessory use shall remain incidental and secondary to the primary use on the property.
- 6) No alterations to the property shall be permitted that would alter its primary use appearance.

**L. H12. Accessory Solar Energy System ("ASES")**

- 1) Criteria Applicable to all Accessory Solar Energy Systems:
  - a. An accessory solar energy system is permitted by right in all zoning districts as an accessory to a principal use. An accessory solar energy system may be roof mounted or ground mounted.

- b. Such accessory uses shall not interfere with the reception of any radio, television or other communication equipment, nor inhibit solar access to adjacent properties.
- c. All such uses shall primarily serve on-site generation needs. If a hookup to a public or community utility system is proposed, the utility company shall provide written authorization of such arrangement by submitting a copy of the agreement to the Township.
- d. Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
- e. All electric wiring and connections from such uses shall be located underground and in accordance with the appropriate building code, as amended.
- f. Accessory solar energy systems shall require a building permit and be accompanied by standard drawings demonstrating compliance with the building code, as amended. A ground-mounted system shall require a zoning permit.

2) Ground-mounted ASES:

- a. A ground-mounted ASES shall meet the setback requirements for accessory structures.
- b. 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 the zoning ordinance may be used.

**M. H13 Stable, Private**

- 1) This use shall only apply to a stable that is accessory to a single family detached dwelling.
- 2) A minimum lot area of 2 acres shall apply for the dwelling and the private stable. One horse is permitted to be kept on a property consisting of two (2) acres. One additional horse may be kept for each additional acre of lot area, provided that the use shall not include a total of more than 3 horses.
- 3) An average of 100 square feet of stable building area shall be provided for each horse kept on the lot.

- 4) The stable building and any manure storage shall be setback a minimum of 100 feet from any lot line.
- 5) The location of the manure storage shall conform to the requirements of the Pennsylvania Nutrient Management Act. In addition to Township requirements, all manure storage shall be managed in a manner that complies with the Clean Streams Law and the practices prescribed in the Pennsylvania Manure Management Manual.
- 6) All grazing and pasture areas utilized for this purpose shall be fenced.

**N. H14. Structure, Temporary.**

- 1) The time period of the initial permit for a Temporary Structure shall not exceed six (6) months. This permit may be renewed for three (3) month time periods, not to exceed a total of twenty-one (21) months from the initial permit. Extensions must be approved by the Zoning Officer. A garage or other accessory building, partial structure or Temporary Structure may be used for dwelling purposes subject to cooking and sanitary services being provided. Such structure or use shall be removed completely upon expiration of the permit without cost to the Municipality.
- 2) The applicant shall provide the Township with plans for Temporary Structures to ensure: adequate parking, emergency access, road access, sanitary facilities, refuse collection, noise control and clean-up after the expiration of the zoning permit allowing for said Temporary Structures. The plans shall be reviewed by the Planning Commission and the Board of Supervisors prior to the issuance of a Zoning Permit for the Temporary Structures.

**O. H15. Use, Temporary.**

- 1) A Temporary Use may also be defined as a “Special Event” and “Retail Sales Establishment, Seasonal”. Applicant shall remove all evidence of such Temporary Use within five (5) business days of the end of the Temporary Use, and the site shall be restored to pre-use condition.
- 2) Parades and Peddling are considered Temporary Uses.
- 3) A seasonal retail sales establishment cannot operate for more three (3) consecutive months per year on a Lot and must be accessory to the primary use.
- 4) A Land Development Plan may be required in compliance with SALDO requirements.<sup>42</sup>
- 5) This term shall not include a Food Truck or Food Cart which is addressed as use H17.

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<sup>42</sup> Editor’s Note: See Ch. 170, Subdivision and Land Development.

**P. H16.        Wind Energy Systems.**

- 1) Such accessory uses shall not be located within the front yard or within the minimum required side and/or rear yards.
- 2) Such accessory uses shall not interfere with the reception of any radio, television or other communication equipment.
- 3) All such uses shall primarily serve on-site generation needs; unless otherwise approved by the Board of Supervisors. If a hookup to a public or community utility system is proposed, electrical plans must be prepared by a Pennsylvania-licensed electrical engineer, at the applicant's expense and submitted to the utility company and Township for approval.
- 4) All electric wiring and connections from such uses shall be located under ground and in accordance with the appropriate building code, as amended.
- 5) The safety of all systems shall be certified in writing to the Township by a Pennsylvania-licensed professional engineer or by an authorized factory representative that the system will operate safely, without loss of structural integrity, under the following conditions:
  - a. loss of utility power – will not back feed a dead utility line.
  - b. high wind speed – shall break or feather below the designed limits of the system.
  - c. blade imbalance – shall support added blade weight of at least ten (10%) percent.
- 6) When a building is necessary for storage cells or related mechanical equipment, the building shall not exceed one hundred and fifty (150) square feet in area, shall not exceed eight (8) feet in height and must not be located in any required front, side or rear yards.
- 7) Windmills.
  - a. Windmills shall be setback from the nearest property line a distance of not less than the normal setback requirements for that zoning district or 1.1 times the overall height of the windmill, whichever is greater.
  - b. No windmill shall be permitted with a design which permits any vane, sail, or rotor blade to pass within fifteen (15) feet of the ground.
  - c. All windmills shall be enclosed by a fence at least four (4) feet in height which is located at least five (5) feet from the base.
  - d. Maximum Height – none. A windmill shall not be subject to the maximum height restrictions of this ordinance; except as imposed by FAA regulations.
  - e. Building permit applications for a wind energy system shall be accompanied by standard drawings of the turbine, tower, base and

footings demonstrating compliance with the building code, as amended.

**Q. H17 Food Truck or Food Cart.**

- 1) A Food Truck or Food Cart is not considered a separate H17 zoning use if it is: 1) allowed as part of a customarily accessory part of a temporary “special event” for up to 7 days per year (such as a festival of a place of worship), or 2) operating as a customarily accessory part of an approved Resort Complex, or 3) at a location for an average of less than 10 minutes per day (such as a mobile ice cream truck or a lunch truck visiting a construction site)
- 2) A Food Truck or Food Cart shall only be operated on a lot that is also occupied by a principal building that is occupied by a principal business and that has driveways and parking suitable to also serve the Food Truck or Food Cart.
- 3) A Food Truck or Food Cart shall not engage in food and drink sales within a public right-of-way.
- 4) Evidence shall be provided to the Township that required health inspections have been completed and that proper sanitary and handwashing facilities are available to the employees.
- 5) The truck or car shall be setback a minimum of 100 feet away from a dwelling on another lot. Generators that create noise heard inside a building and tanks of explosive substances shall not be placed within 150 feet of a dwelling.
- 6) The use shall meet Township limitations on flashing and electronically changing signs. Any signs that are not painted on the truck or cart shall meet requirements for signs that would apply to a regular commercial use.
- 7) The use shall not be open to customers between 10PM and 6AM
- 8) The use shall provide a regularly emptied sanitary outdoor waste container, and litter shall be regularly collected.
- 9) The use shall only operate with written permission of the property owner.
- 10) A maximum of one food truck or food cart shall be allowed per lot, except as authorized as a special event by the Township.
- 11) A food truck shall display a current State vehicle license and safety inspection sticker and have current vehicle registration.
- 12) The use shall not obstruct safe sight distances at intersections and driveways.

**§ 044-090. Short Term Rental of Residential Dwelling Units**

The following supplementary regulations shall apply to short-term rental of residential dwelling units:

- A. When a residential dwelling unit use is permitted, short term rental of the dwelling unit for residential purposes shall also be permitted, subject to compliance with any and all Middle Smithfield Township ordinances governing short-term rentals.



- B. Short-term rental use of a dwelling unit shall comply with all applicable federal, state and Middle Smithfield Township laws, rules, ordinances and/or regulations, including without limitation, other provisions of the Zoning Ordinance which would be applicable to the use of the property as a dwelling unit when not subject to short term rental.
- C. The commencement of short-term rental activity of a dwelling unit shall be considered a change in use of the property and shall not occur without the property owner first applying for, and receiving, a zoning permit from the Township for such change in use.
- D. These supplemental regulations do not apply to a Dwelling, Group Home use as defined by section 020-020, or properties located within the Township's Resort complex/Commercial Resort Overlay District.

## ARTICLE V: OFF-STREET PARKING AND LOADING

### DIVISION 50: REQUIRED NUMBER OF PARKING SPACES

#### § 050-010. Parking Requirements.

- A. Number of Spaces. Each use that is newly developed, enlarged, significantly changed in type or increased in the number of establishments shall provide and maintain the following number of off-street parking spaces.

**TABLE OF REQUIRED NUMBER OF OFF-STREET PARKING REQUIREMENTS**

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
A. AGRICULTURAL USES:		
1. Agriculture, General	No minimum requirement	
2. Agriculture, Intensive	No minimum requirement	
3. Forestry	No minimum requirement	
4. Kennel, State-licensed	1 space for each 400 s.f. of gross floor area (including runs)	
5. Kennel, Private (non state-licensed)	1 space for each 400 s.f. of gross floor area (including runs)	
6. Nursery	1 space per 300 s.f. of floor area	1 space per 1,000 s.f. of outdoor display
7. Riding Academy	1 space per 3 stalls	
8. Stable	1 space per 3 stalls	
B. RESIDENTIAL USES:	.	
1. Conservation Development	2 spaces per dwelling unit	
2. Dwelling, Apartment Complex	1.5 space per dwelling unit	
3. Dwelling, Boardinghouse	1.5 spaces for each sleeping room	
4. Dwelling, Dormitory	1.5 spaces for each sleeping room	
5. Dwelling, Duplex	2 spaces per dwelling unit	

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
6. Dwelling, Group Home	1 space per 2 resident beds, unless the applicant proves the use will be limited to persons who will not be allowed to drive a vehicle from the property	1 space per 300 square feet of gross floor area of office
7. Dwelling, Mobile/Manufactured Home	2 spaces per dwelling unit	
8. Dwelling, Residential Conversion	2 spaces per dwelling unit	
9. Dwelling, Single-Family Detached	2 spaces per dwelling unit	
10. Dwelling, Townhouse or Rowhouse	2 spaces per dwelling unit	
11. Dwelling, Twin Dwelling Unit	2 spaces per dwelling unit	
12. Homeless Shelter, Permanent	1 space per 2 resident beds, unless the applicant proves the use will be limited to persons who will not be allowed to drive a vehicle from the property	1 space per 300 square feet of gross floor area of office
13. Manufactured Home Park	2 spaces per dwelling unit	
14. Senior Active Adult Development	1 space per dwelling/ rental unit	0.25 spaces per unit for visitor/employee parking
C. INSTITUTIONAL AND RECREATIONAL USES:		
1. Bed and Breakfast	1 space per guest room	1 space per 100 square feet of dining area and public gathering area
2. Cemetery	1 space per 250 s.f. of office space. Internal roadways shall provide for parallel parking.	Where a chapel or auditorium is provided, an additional 1 space per four seats
3. Community Center	1 space per 250 s.f. of GFA (indoor) or of site area accessible to customers, patrons, guests, etc. (outdoor) or combination thereof	
4. Day Care Center	1 space per 500 s.f. of GFA	
5. Detention Facility	1 space per 2,000 square feet of gross floor area	

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
6. Gaming/Gambling Establishment	1 space per 50 square feet of usable floor area of dining room, bar, gaming and dancing space	
7. Golf Course	3 spaces per hole	Where a club house is provided, an additional 1 space for every 150 s.f. of gross floor area  Where a driving range is provided, an additional 1 space per tee
8. Library or Museum	1 space per 300 square feet of gross floor area	
9. Life Care Facility	1 space per bedroom	
10. Medical Facilities	1 space per 200 square feet of gross floor area	
11. Municipal Service Facility	1 space per 200 square feet of gross floor area	
12. Nursing Home, Personal Care Home or Assisted Living	1 space per three patient beds	
13. Private Club	1 space for each 3 persons of total capacity	
14. Campground	1 space per campsite	1 space for every 3 campsites for overflow parking
15. Recreational Facility	Court, Basketball: 5 spaces per court Court, Tennis/Pickleball: 3 spaces per court Dog Park: 1 space per 1,000 s.f. Field, Diamond: 20 spaces per field Field, Rectangle: 30 spaces per field Picnic Shelter: 1 space per table Playground: 1 space per 1,000 s.f. Indoor Pool: 20 spaces per pool Outdoor Pool: 20 spaces per pool Trail Head: 1 space per 1,000 linear feet of trail Nonprogrammed parkland/passive recreation: 5 spaces per acre All other indoor facilities: 1 space per 250 s.f. of enclosed GFA	

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
16. Resort Complex	1.75 spaces per guest room	1 space per 60 square feet of usable public floor area of restaurants, dining rooms, bars and dancing areas and places where the public is served
17. School	<p>Elementary and Middle School: 2 spaces per classroom and office</p> <p>High School: 2 spaces per classroom and office</p> <p>College: 1 per 500 square feet of gross floor area of campus buildings exclusive of dormitories, which must comply with the requirements for such use</p>	<p>Elementary and Middle School: 1 space per 100 square feet of the principal assembly area</p> <p>High School: 1 space for each 3 seats in either the auditorium or stadium, whichever is larger</p>
18. Shooting Range	5 spaces	1 space per firing position
19. Ski Area	1 space per 9 persons per hour uphill capacity for the ski area	1 space per 100 square feet of gross floor area for the base lodge
20. Theater	1 space per every 4 seats	
21. Treatment Center	1 space per 2 resident beds, unless the applicant proves the use will be limited to persons who will not be allowed to drive a vehicle from the property	1 space per 300 square feet of gross floor area of office and/or gathering space
22. Place of Worship	1 space for every 4 seats provided within the largest gathering space (church hall, sanctuary, meeting area, etc.)	
D. OFFICE USES		
1. Office	1 space per 250 square feet of gross floor area	
2. Business Park	1 space per 300 square feet of gross floor area	
3. Data Center	1 space per 1,000 square feet of gross floor area	
E. UTILITY, SERVICE AND TRANSPORTATION USES		

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
1. Airport	10 spaces per airplane hangar space	
2. Wireless Communication Facilities (Tower-based and Non-Tower)	2 spaces	
3. Emergency Service Facilities	4 spaces per emergency service vehicle	If there is community room, an additional 1 space per 50 square feet of meeting space
4. Essential Services/Utilities	2 spaces	
5. Helipad or Heliport	1 per tie-down, minimum of 5 spaces	
F. RETAIL AND CONSUMER SERVICE USES:	All commercial uses, as applicable, shall provide additional parking or storage needed for the maximum number of vehicles stored, displayed or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this Ordinance.	
1. Adult Use	1 space per 200 square feet of gross floor area	
2. Convenience Store and/or Gas Station	1 space per 150 square feet of gross floor area of retail space	1 space per gas pump
3. Drive-In Business	1.5 spaces per vehicle stacking lane space  *§044-060.C(1) requires a minimum stacking lane of eight cars for a drive-in business	
4. Funeral Home	1 space per 4 seats provided for patron use	
5. Hotel, Motel or Inn	1.5 spaces per sleeping room	1 space per each 400 square feet of meeting/eating areas
6. Health Spa	1 space per 250 square feet of gross floor area	
7. Nightclub, Bar or Tavern	1 space per 100 square feet of gross floor area	
8. Open-Air Business or Flea Market	1 space for every 200 square feet of gross floor area and outdoor sales areas including pedestrian areas	
9. Race Track	1 space per every 3 seats	

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
10. Restaurant	1 space per 150 square feet of gross floor area	
11. Restaurant, Drive-In	1 space per 200 square feet of gross floor area	1.5 spaces per vehicle stacking lane space
12. Service Business	1 space per 150 square feet of gross floor area	
13. Shopping Center	1 space per 300 square feet of gross floor area	
14. Store, Large Retail	1 space per 300 square feet of gross floor area	
15. Store, Retail	1 space per 250 square feet of gross floor area	
16. Vehicle Parking Lot or Garage	No minimum required	
17. Vehicle Sales	1 space per 250 square feet of gross floor area  *This does not include parking spaces for display of vehicles available for sale	
18. Vehicle Service and Repair Facility	3 spaces per service bay	1 space per 100 square feet of gross floor area of retail space
19. Veterinarian Office or Clinic	1 space per 300 square feet of gross floor area	
20. Self-Storage Facilities	1 space per 20 units	1 space per 300 square feet of gross floor area of office space
21. Medical Marijuana Dispensary	1 space per 200 square feet of gross floor area	
G. INDUSTRIAL USES:		
1. Building Material Sales	1 space per 500 square feet of gross floor area	
2. Bus Maintenance or Storage Yard	1 space per 500 square feet of gross floor area	

USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
3. Extractive Operation, Sand and Gravel Pit, Asphalt/Concrete Facility	No minimum required	
4. Fuel Storage and Distribution	1 space per 500 square feet of gross floor area	
5. Junkyard	1 space per 300 square feet of gross floor area	1 space per 10,000 square feet of outdoor storage and repair
6. Landfill, Sanitary	No minimum required	
7. Manufacturing or Light Manufacturing	1 space per 1,000 square feet of gross floor area of storage or warehouse area	1 space per 300 square feet of gross floor area of office or retail space
8. Resource Recovery Facility	No minimum required	
9. Slaughterhouse	1 space per 1,000 square feet of gross floor area	
10. Small Logistics Centers and Large Logistics Centers	1.1 per employee on the largest shift, plus one tractor-trailer space located at each loading dock/bay, plus one additional trailer parking space (minimum of 12' x 55') per loading dock/bay, plus additional "stacking/storage" parking spaces (minimum of 14' x 74') for tractor-trailers in an amount greater than or equal to 10% of the number of loading docks/bays (with a minimum of 10 spaces) for the stacking/storage of tractor-trailers, all directly accessible by adequate aisles or drives. The parking and stacking design shall provide adequate area/spaces for the parking and stacking of tractor-trailers that are awaiting entry to the loading/unloading area to prevent the backup of tractor-trailers and/or other vehicles onto a public street.	
11. Reserved		
12. Medical Marijuana Grower/Processor	1 space per 1,000 square feet of gross floor area	
H. ACCESSORY USES AND STRUCTURES		



USE	BASE NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS:
1. Accessory Structures	No minimum required	
2. Accessory Uses	Minimum required same as most closely related use	
3. Agriculture, Retail	1 space per 250 square feet of retail floor area	
4. Bus Shelter	No minimum required	
5. Day Care Center, exempt premises	1 space	1 space for loading/unloading
6. Dwelling, Accessory Apartment	2 spaces per dwelling unit	
7. Homeless Shelter, Temporary	1 space per 2 resident beds, unless the applicant proves the use will be limited to persons who will not be allowed to drive a vehicle from the property	1 space per 300 square feet of gross floor area of office
8a. Low Impact Home-Based Business	No minimum required	
8b. Other Types of Home Based Business	1 space per 200 s.f. of floor area of accessory use	
9. Outdoor Storage	No minimum required	
10. Keeping of Pets	No minimum required	
11. Recycling Collection Center	1 space per 500 square feet of gross floor area	
12. Solar Energy System	No minimum required	
13. Stable, Private	1 space per 2 stalls	
14. Structure, Temporary	No minimum required	
15. Use, Temporary	No minimum required	
16. Wind Energy Systems	No minimum required	
17. Food Truck or Food Cart	5 spaces per truck or cart	

- B. Area Reserved for Additional Parking. In response to a written request from the applicant, the Board of Supervisors may allow the reservation for a certain number of years of the space needed for up to 25 percent of the required parking. Such reservation shall be in a form acceptable to the Township solicitor that legally binds current and future owners of the land to keep the reserved parking area in open space and then to provide the additional parking if the Township determines it is

necessary, as provided below. A deed restriction shall be required in a manner and form deemed acceptable to the Township.

- C. Parking Site Plan. The applicant shall present a site plan to the Township that shows the layout that will be used for the average and 85<sup>th</sup> percentile parking. The site plan shall show that the additional parking is integrated with the overall traffic access and pedestrian access for the site and that the additional parking will be able to meet the Township requirements. The stormwater management design for the overall site shall take into account that the area set aside for additional parking and their associated aisles and accessways are impervious. The reserved area shall be required to be kept as landscaped open area until such time as the Board of Supervisors decision may authorize the land's release from the restriction or until the Township may require that the land be developed as parking.
- D. Periodic Review of Reserved Parking Area. The Zoning Officer shall periodically review the sufficiency of the parking that is provided. If the Zoning Officer in the future determines that the reserved parking is needed to meet actual demand, he/she shall provide a written report of the findings indicating why the additional parking is required and send the report to the Board of Supervisors and the property owner. The property owner shall be required to meet with the Board of Supervisors at a public meeting within thirty (30) days of said notice. The report will be presented and discussed at the public meeting and the Board of Supervisors will render a written decision at a public meeting within forty five (45) days of said meeting. If required, the property owner shall then have one year to develop the reserved area into off street parking in compliance with previously approved plan.
- E. Uses Not Listed. Uses not listed in the above-referenced Table of Required Number of Off-Street Parking Requirements shall comply with the most similar use listed in the Table, as determined by the Township, unless the applicant proves to the satisfaction of the Township that an alternative standard should be used for that use.
- F. Multiple Uses. Where a proposed lot contains or includes more than one type of use, the number of parking spaces required shall be the sum of the parking requirements for each use. § 050-030 D and E shall apply.
- G. Parking Landscaping. See provisions for buffer yards and landscaping in this Chapter.

**§ 050-020. General Regulations for Off-Street Parking.**

- A. General. Parking spaces and accessways shall be laid out to result in safe and orderly use and to fully take into account all of the following: vehicular access onto and off the site; vehicular movement within the site; loading areas; pedestrian patterns and any drive-through facilities. No parking area shall cause a safety hazard or impediment to traffic on or off the lot.

- B. Existing Parking. Any parking spaces serving such pre-existing structures or uses at the time of the adoption of this Ordinance shall not in the future be reduced in number below the number required by this Ordinance. If a new principal nonresidential building is constructed on a lot, then any existing parking on such lot that serves such building shall be reconfigured to comply with this Ordinance, including but not limited to: required parking and areas reserved for additional parking if needed; requirements for channelization of traffic from adjacent streets; channelization of traffic within the lot; minimum aisle widths; paving and landscaping.
- C. Change in Use or Expansion. A structure or use in existence at the effective date of this Ordinance that expands or changes the use of an existing principal building shall be required to provide the required parking for the entire size and type of the resulting use as outlined above, except as follows:
- 1) If an existing lawful use includes less parking than would be required if the use would be newly developed, then that deficit of parking shall be grandfathered for reuses of an existing building. For example, an existing store might include three parking spaces and would have been required to provide seven spaces if it was newly developed. Therefore, there is an existing nonconforming deficit of four spaces. Then, if that store is converted to an office that would need 10 spaces, the office would need to provide a total of six spaces (ten spaces minus the preexisting deficit of four spaces equals six spaces).
  - 2) If a nonresidential use expands by an aggregate total maximum of 5% in the applicable measurement (such as gross floor area) beyond what existed at the time of adoption of this Ordinance, then no additional parking is required. This addition without providing new parking shall only be allowed one time per structure.
- D. Continuing Obligation of Parking and Loading Spaces. All required numbers of parking spaces and off-street loading spaces shall be available as long as the use or building which the spaces serve still exists, and such spaces shall not be reduced in number below the minimum required by this Ordinance. No required parking area or off-street loading spaces shall be used for any other use, (such as storage or display of materials) that interferes with the area's availability for parking.
- E. Location of Parking. Required off-street parking spaces shall be on the same lot, unless the applicant obtains conditional use approval from the Board of Supervisors that (i) a method of providing the spaces is guaranteed to be available during all of the years the use is in operation within 300 feet walking distance from the entrance of the principal use being served and (ii) the walkway area for employees to travel between lots is safe for pedestrian use. Such distance may be increased to 500 feet for employee parking of a nonresidential use. A written and signed lease shall be provided, if applicable. The Board of Supervisors may require that the use be

approved for a period of time consistent with the lease of the parking, and that any renewal of the permit shall only be approved if the parking lease is renewed.

- F. Tree Preservation. A 5% reduction in the number of parking spaces required on the site shall be allowed to the extent that the reduction in the amount of required pavement will preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Township Board of Supervisors.
- G. Signage. Adequate signage shall be provided to facilitate traffic flow. At a minimum, stop signs shall be provided at locations where parking aisles intersect circulation roadways, and at parking lot access points onto streets and roadways. Signage shall meet Penn DOT design standards.
- H. Pavement Design. Off-street parking areas, loading areas and perimeter travel lanes shall be designed in accordance with the specifications set forth in the Subdivision and Land Development Ordinance.<sup>43</sup>

**§ 050-030. Reduction of Parking Requirements as a Conditional Use.**

- A. Purpose. To minimize the amount of land covered by paving, while making sure adequate parking is provided. To recognize that unique circumstances may justify a reduction in parking.
- B. As a Conditional Use. As a conditional use, the Board of Supervisors may authorize a reduction in the number of off-street parking spaces required to be provided for a use if the applicant proves to the satisfaction of the Board of Supervisors that a lesser number of spaces would be sufficient.
- C. Evidence. The applicant shall provide evidence justifying the proposed reduced number of spaces, such as studies of similar developments during their peak hours. The applicant shall also provide relevant data, such as number of employees, peak expected number of customers/visitors and similar data. Such information provided shall be in report format.
- D. Shared Parking. An applicant may prove that a reduced number of parking spaces are justified because more than one principal use will share the same parking. In such case, the applicant shall provide a Shared Parking Study. The study shall clearly establish those uses that will use the shared spaces at different times of the day, week, month, and/or year, including seasonal or mode adjustment factors. The study shall:
  - 1) Be based on the most current Urban Land Institute (ULI) or ITE parking study methodology, or other generally accepted methodology;

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<sup>43</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

- 2) Address the size and type of activities, the composition of occupants, and the anticipated peak parking and traffic loads;
- 3) Provide for a reduction by not more than 50% of the combined parking required for each use;
- 4) Provide for no reduction in the number of spaces reserved for persons with disabilities;
- 5) Address the risk of a future design change that might impact or otherwise affect the use of shared parking, and identify a reserve area to be used if future parking expansion is required; and
- 6) Be sealed by a professional engineer licensed in the Commonwealth.

E. Shared Parking Plan Agreement. A shared parking plan, if approved by the Board of Supervisors, shall be enforced through a written agreement in a manner and form deemed acceptable by the Township. An attested copy of the agreement between the owners of record shall be provided to the Township. Proof of recordation of the agreement shall also be provided to the Township before the issuance of a zoning permit for the project. The agreement shall:

- 1) List the names and ownership interests of all parties to the agreement and contain the signatures of those parties;
- 2) Provide a legal description of the land or parcel(s) whose uses are to be included in the shared parking plan;
- 3) Include a site plan showing the area of the parking parcel, access drives, and any area that must be maintained in green space for the possible future expansion of the parking area;
- 4) Provide a legal description of the parking parcel or easement including any access aisles and parking reserve areas, and designate and reserve this area for shared parking unencumbered by any conditions that would interfere with its use;
- 5) Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
- 6) Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;

- 7) Describe the obligations of each party, including the maintenance responsibility to retain any identified reserved open space (if applicable) for additional parking spaces if needed;
- 8) Incorporate the Shared Parking Study by reference; and
- 9) Describe the method by which the covenant shall, if necessary, be revised.

F. Change in Use of a Shared Parking Area. Should any of the shared parking uses be changed, or should the Township determine that the conditions of the Shared Parking Agreement have changed, or if the Township determines that insufficient parking is an issue, the owner shall have the option of submitting a revised Shared Parking Study and Agreement or provide the number of spaces required for each use as submitted separately. If the Township disagrees with the revised Shared Parking Study the Township may require the full number of parking spaces to be provided. Failure to comply with this decision or the shared parking agreement shall be cause for revocation of a Certificate of Compliance.

G. Reserved Area for Additional Parking.

- 1) The applicant shall present a site plan to the Board of Supervisors that shows the layout that will be used for the additional parking if the parking is required to be provided in the future. The site plan shall show that the additional parking is integrated with the overall traffic access and pedestrian access for the site and that the additional parking will be able to meet Township requirements.
- 2) The additional parking that is reserved under this subsection shall be required to be kept as landscaped open area until such time as the Board of Supervisors decision may authorize the land's release from the restriction or until the Township may require that the land be developed as parking.
- 3) The Zoning Officer shall periodically review the sufficiency of the parking that is provided. If the Zoning Officer in the future determines that the reserved parking is needed to meet actual demand, he/she shall provide written notice to the property owner. The property owner shall then have one year to develop the reserved area into off-street parking in compliance with this Chapter.

**§ 050-040. Design Standards for Off-Street Parking.**

A. General Requirements.

- 1) Backing into a street. No parking area shall be designed to require or encourage parked vehicles to back into a public street in order to leave a parking space, except for a single-family or two-family dwelling with its access onto a local residential street with sufficient sight distance. Parking spaces may back into an alley.

- 2) Every required parking space shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of another vehicle. See § 050-010 A.1.
- 3) Parking areas shall not be within a required buffer yard or street right-of-way.
- 4) Separation from street. Except for parking spaces immediately in front of individual dwellings, all areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically separated from the street by a continuous grass or landscaped planting strip, except for necessary and approved vehicle entrances and exits to a lot.
- 5) Stacking and obstructions. Each lot shall provide adequate area upon the lot to prevent backup of vehicles on a public street while awaiting entry to the lot or while waiting for service at a drive-through facility.
- 6) Size and marking of parking spaces.
  - a. Each parking space shall be a rectangle with a minimum width of nine (9) feet when the stall angle is 90° and nine and one-half (9.5') feet when the angle is 45° or 60°. The minimum width for parking stalls in garages or car ports shall be ten (10') feet wide. The minimum length of a parking space shall be eighteen (18') feet (which includes a front overhang of three (3') feet), except the minimum length shall be twenty-two (22') feet for parallel parking.
  - b. If a sidewalk exists at the curb, the combined width of the curb and sidewalk shall be sufficient to permit a four-foot (4') unobstructed walkway width (i.e. the minimum width of sidewalk plus curb shall be four (4') feet plus the front overhang). Where curb overhang will not interfere with pedestrian flow or impact adjacent landscaping, the stall depth may be reduced by the front overhang (i.e. the parking space depth can be reduced to fifteen (15') feet if there is a curb and sidewalk adjacent to it of at least seven (7') feet).
  - c. For parking spaces for persons with disabilities, see below.
  - d. All spaces shall be marked in a manner and form deemed acceptable to the Township to indicate their location, except those of a one- or two-family dwelling.

B. Aisles.

- 1) Each aisle providing for one-way traffic to access parking stalls shall have the following minimum width:

<b>Angle of Parking (degrees)</b>	<b>Minimum Aisle Width (feet)</b>
Parallel or 30	12
45	14
60	16
90	20

- 2) Each aisle providing access to stalls for two-way traffic shall be a minimum of 24 feet in width, except a width of 20 feet may be allowed for parking areas with spaces that are parallel or involve an angle of parking of 45° or less.

C. Accessways and driveways.

- 1) The width of driveway/accessway at the entrance onto a street, at the edge of the cart way shall be as follows:

	<b>One-Way Use (feet)</b>	<b>Two-Way Use (feet)</b>
Minimum	12*	25*
Maximum	20*	30*

\* Unless a different standard is required by PennDOT for an entrance to a state road or the applicant proves to the satisfaction of the Zoning Officer that a wider width is needed for tractor-trailer trucks. An illustration indicating the proposed truck type and proposed truck path shall be provided with the application to show why the extra width is required.

- 2) Storm water management. Adequate provisions shall be made to maintain uninterrupted parallel storm water flow along a street at the point of driveway entry. The Township may require an applicant to install an appropriate type and size of pipe at a driveway crossing.

D. Paving, Grading and Drainage.

- 1) Parking and loading facilities, including driveways, shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties.
- 2) Except for landscaped areas, all portions of required parking, loading facilities and driveways shall be surfaced with asphalt, concrete, paving block or other low-dust materials pre-approved by the Township.
- 3) However, by Conditional Use, the Board of Supervisors may allow parking areas with low or seasonal usage to be maintained in stone, grass or other



suitable surfaces. For example, the Board of Supervisors may allow parking spaces to be grass, while major aisles are covered by stone.

- 4) If the design and material are found acceptable by the Township Engineer, portions of parking areas may be covered with a low-dust porous parking surface that is designed to promote groundwater recharge. This might include porous asphalt or pervious concrete placed over open-graded gravel and crushed stone. Porous parking surfaces shall not be allowed in areas routinely used by heavy trucks.
- 5) Curbing should not be required in parking areas except where necessary to control stormwater runoff.

E. Lighting of Parking Areas. See light and glare control in the Zoning Ordinance.

F. Parking for Persons with Disabilities/Handicapped Parking.

- 1) Number of spaces. Any lot including four or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicap spaces shall be provided, unless a greater number of spaces are officially required under the Federal Americans with Disabilities Act (ADA)<sup>44</sup>, as amended:

TOTAL NO. OF PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./ PERCENT OF ADA-ACCESSIBLE PARKING SPACES
1 to 25	1 van-accessible
26 to 50	2, 1 of which must be van-accessible
51 to 75	3, 1 of which must be van-accessible
76 to 100	4, 1 of which must be van-accessible
101 to 150	5, 1 of which must be van-accessible
151 to 200	6, 1 of which must be van-accessible
201 to 300	7, 1 of which must be van-accessible
301 to 400	8, 1 of which must be van-accessible
401 to 500	9, 2 of which must be van-accessible
501 to 1,000	2% of total number of spaces, 1/8th of which must be van-accessible

<sup>44</sup> Editor's Note: See 42 U.S.C. § 12101 et seq.

TOTAL NO. OF PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./ PERCENT OF ADA-ACCESSIBLE PARKING SPACES
1,001 or more	20 plus 1% of spaces for each 100 over 1000 spaces, 1/8 of which must be van-accessible

- 2) Location. Handicapped parking spaces shall be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.
  - 3) Minimum Size. Each required handicapped parking spaces shall be eight (8') feet by eighteen (18') feet. In addition, each space shall be adjacent to a five-foot (5') wide access aisle. Such access aisle may be shared by two handicapped spaces by being placed between them. However, one out of every eight required handicapped parking spaces shall have an adjacent access aisle of eight (8') feet width instead of five (5') feet, and there shall be at least one eight-foot (8') access aisle when handicapped parking is required (i.e. if only two (2) handicap spaces are required the aisle between the two spaces must be at least eight (8') feet wide).
  - 4) Slope. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be located in areas less than 2% slope in any direction.
  - 5) Marking. All required handicapped spaces shall be well marked by clearly visible signs and by pavement markings. Such signs and markings shall be maintained over time. Blue paint is recommended. The amount of the fine for violations shall be noted on the signs that are visible to persons parking in the space.
  - 6) Paving. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be covered with a surface that is usable with a wheelchair and meets the requirements of the ADA, as amended.
- G. Paved Area Setbacks (including, Off-Street Parking Setbacks).
- 1) Intent. To ensure that parking or moving vehicles within a lot do not obstruct sight distance or interfere with pedestrian traffic, to aid in stormwater management along streets and to prevent vehicles from entering or exiting a lot other than at approved driveways.
  - 2) Any new or expanded paved area serving a principal nonresidential use shall be separated from a public street by a planting strip. The planting strip shall have a minimum width of fifteen (15') feet and be maintained in grass or other attractive vegetative ground cover, as approved by the Township. At

least ten (10') feet of the planting strip shall be outside of the street right-of-way.

- 3) The planting strip shall not include heights or locations of plants that would obstruct safe sight distances, but may include deciduous trees that motorists can view under the leaf canopy.
- 4) The planting strip may be placed inward from the shoulder of an uncurbed street or inward from the face of the curb of a curbed street. The planting strip may overlap the street right-of-way, provided it does not conflict with PennDOT requirements, and provided that the Township and PennDOT, as applicable, maintain the right to replace planting areas within the right-of-way with future street improvements as required.
- 5) Township-approved sidewalks and approximately perpendicular driveway crossings may be placed within the planting strip. Stormwater channels may be placed within the planting strip as long as there is at least a 10-foot planting strip between the edge of the stormwater channel closest to the parking area and the parking area. The following shall be prohibited within the planting strip:
  - a. Paving, except for approved sidewalks and driveway crossings, and except for street widenings that may occur after the development is completed;
  - b. Parking, storage or display of vehicles or items for sale or rent.
- 6) This setback shall include an unobstructed generally level width running parallel to the road that is suitable for a person to walk. The intent of this level area is to allow for the construction of a sidewalk at some future date if it is not required as part of the current application.

- H. Parking setback from buildings. Parking spaces serving principal nonresidential buildings and apartment buildings shall be located a minimum of 5 feet from any building wall, unless a larger distance is required by another provision. This distance does not apply at vehicle entrances into or under a building.

**§ 050-050. Off-Street Loading.**

- A. Each use shall provide off-street loading facilities, which meet the requirements of this section, sufficient to accommodate the maximum demand generated by the use and the maximum size vehicle, in a manner that will not routinely obstruct traffic on a public street. An illustration indicating the proposed truck type and proposed truck path shall be provided with the application to show how this section's requirements will be met.

- B. At the time of review under this Ordinance, the applicant shall provide evidence to the Township on whether the use will have sufficient numbers and sizes of loading facilities. For the purposes of this Ordinance, the words “loading” and “unloading” are used interchangeably.
- C. Each space, and the needed maneuver room, shall not intrude into approved buffer areas, landscaped areas and planting strips.

**§ 050-060. Fire Lanes and Access.**

- A. Fire lanes shall be provided where required by state or federal regulations or other local ordinances.
- B. The applicant shall provide suitable access for emergency apparatus for all nonresidential buildings and apartment buildings.
- C. The specific locations of fire lanes and emergency apparatus access are subject to review and approval by the Township.

## **ARTICLE VI: DEVELOPMENT OPTIONS**

**DIVISION 60: (Reserved)<sup>45</sup>**

**§ 060-010 through § 060-070 (Reserved)**

**DIVISION 61: RESORT COMPLEX / COMMERCIAL RESORT DEVELOPMENT OPTION.**

**§ 061-010. Eligibility.**

- A. A Resort Complex/Commercial Resort Development shall be allowed as a conditional use in districts as provided in the table of Use Regulations in Attachment 3.
- B. To be eligible for approval as a new Resort Complex/Commercial Resort Development, the applicant shall submit a master plan ("Master Plan"), under the Conditional Use format, as provided for in this Chapter. The application shall describe proposed land uses in sufficient detail to document coordinated planning.
- C. Existing Resort Complex/Commercial Resort Developments.
  - 1) Anything to the contrary notwithstanding, the existing Resort Complex/Commercial Resort Developments, Ski Shawnee Resort Complex, Fernwood Hotel and Resort Complex, and Raj Investments/Pocono Palace Resort Complex, approved under the Middle Smithfield Township Zoning Ordinance of 2004 (see § 025-030 of this Chapter) and/or Middle Smithfield Township Zoning Ordinance of 2010-A, shall be deemed to be in conformity with this Chapter to the extent that the uses, lots and structures within such Resort Complex/Commercial Resort Developments as existed at the time of the approval as a Resort Complex/Commercial Resort Development are within the scope of the Master Plan submitted under the Middle Smithfield Township Zoning Ordinance of 2004, the Middle Smithfield Township Zoning Ordinance of 2010-A, or as otherwise permitted by way of their respective Conditional Use approval and/or under the provisions of this Division for a new Resort Complex/Commercial Resort Development. No uses, lots or structures which existed at the time of the approval as a Resort Complex/Commercial Resort Development or are within the scope of the Master Plan submitted under the Middle Smithfield Township Zoning Ordinance of 2004 or are otherwise permitted under the provisions of this Division for a new Resort Complex/Commercial Resort Development shall be deemed nonconforming as a result of that use, lot or structure not meeting the "Miscellaneous Performance Standards and Regulations" or "Regulations Governing Specific Uses" or other dimensional or performance standards or regulations set forth in this Chapter.
  - 2) An application for approval to revise the approved Master Plan of an existing Resort Complex/Commercial Resort Development shall be by conditional use and is not required to include fully engineered plans if fully engineered plans

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<sup>45</sup>Editor's Note: Former Division 60, Traditional Neighborhood Development (TND) Option, consisting of §§ 060-010 through 060-070, was repealed 9-4-2012 by Ord. No. 188

will be submitted later as part of a subdivision or land development application, unless otherwise required by the Township Board of Supervisors.

- 3) An existing Resort Complex/Commercial Resort Development shall, to the maximum extent practicable, coordinate site layout, stormwater management, utilities, trails, parking and traffic access with respect to new development proposed within the Resort Complex/Commercial Resort Development, provided that redevelopment of existing developed areas shall not be required.
- 4) A revised land development plan shall be required to change or modify uses permitted within the Master Plan or the underlying zoning district, add uses that are either accessory to uses already approved as part of the Master Plan or permitted within the underlying zoning district, make structural alterations to the existing Resort Complex/Commercial Resort Development, relocate uses, or construct, reconstruct, alter, expand and/or enlarge structures or develop categories of uses provided for under the original Master Plan meeting the standards in the initial approval or which uses are permitted in the underlying zoning district, provided building permits and land development approvals, as may be required, are obtained.
- 5) A new/revised Conditional Use approval shall not be required to add to, or remove from, a Resort Complex/Commercial Resort Development (i) less than 10 acres of land in the aggregate over time, or (ii) less than ten percent of the total land area, whichever is less, provided that said land is not essential in providing access to or through remaining portions of the Resort Complex/Commercial Resort Development and is not otherwise essential to meeting minimum development standards.
- 6) A new/revised Master Plan shall be submitted for approval by conditional use for the following:
  - a. Add or remove 10 or more acres of land in the aggregate over time, or ten percent or more of the total land area, whichever is less, to or from a Resort Complex/Commercial Resort Development;
  - b. Add new types of uses not included in the initial Conditional Use approval and Master Plan and/or which are not permitted in the underlying zoning district;
  - c. Add land to the Resort Complex/Commercial Resort Development which is not located within a zoning district in which a Resort Complex/Commercial Resort Development is permitted; or
  - d. Remove and/or add any portion of land from or to the Resort Complex/Commercial Resort Development which is essential in providing access to or through remaining portions of the Resort Complex/Commercial Resort Development.

**§ 061-020. Minimum Requirements.**

- A. The land area and parcels to be included within a proposed Resort Complex/Commercial Resort Development shall be determined by the applicant,

- provided that the Resort Complex/Commercial Resort Development shall include a minimum of 25 acres in lot area for all lots combined for tax assessment purposes. Smaller noncontiguous lots may also be part of one Resort Complex/Commercial Resort Development, provided those lots meet the specific lot size requirements of the district and have coordinated traffic access with the resort complex using one or more existing or preapproved accesses as provided in the Master Plan. Any parcel or land area that does not require access from or through the Resort Complex/Commercial Resort Development may be excluded.
- B. Nothing herein shall preclude the ownership of individual parcels by different owners, provided such parcels are required to be developed in conformance with the approved Master Plan for the Resort Complex/Commercial Resort Development, or are to be used for a land use that is not required to be within an approved Resort Complex/Commercial Resort Development but allowed within the specific underlying zoning district.
  - C. Land areas occupied by nonresidential uses and related parking shall not count towards land areas used to determine residential density within the Resort Complex/Commercial Resort Development.

**§ 061-030. Master Plan.**

- A. To obtain approval of a Resort Complex/Commercial Resort Development, the applicant shall provide sufficient information to show the feasibility of the development, the methods of traffic access, the approximate locations of various uses by category(ies), as outlined below, and the methods that will be used to buffer uses and nuisances from neighboring dwellings. The Master Plan shall be submitted in the form of a sketch plan as provided under the Township Subdivision and Land Development Chapter<sup>46</sup>.
- B. An approved Master Plan may be modified by conditional use to add and/or subtract land to/from the Resort Complex/Commercial Resort Development or revise the overall site plan in the manner provided in this Chapter.
- C. An application for approval of a new and/or revised Resort Complex/Commercial Resort Development is not required to include fully engineered plans if fully engineered plans will be submitted later as part of a subdivision or land development application, unless otherwise required by the Township Board of Supervisors.
- D. Any new Resort Complex/Commercial Resort Development submitted for approval after the enactment of this section shall have fully coordinated site layout, stormwater management, utilities, trails, parking and traffic access with other parts of the Resort Complex/Commercial Resort Development.

**§ 061-040. Resort Complex/Commercial Resort Development Uses.**

- A. A Master Plan may include a range of uses and use categories to be allowed within various areas and buildings and may also include a range of sizes of buildings. For example, a Master Plan may provide for a hotel within a certain land area that would

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<sup>46</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

be no greater than X square feet and no greater than Y guest rooms and no more than Z feet from the property line. The exact dimensions and size would then be established in the future as parts of a subsequent detailed land development or building permit application and approval. Or, a Master Plan may provide for X square feet of various retail uses with the exact dimensions and nature of those uses specified in a subsequent detailed land development or building permit application and approval.

- B. A new or existing Resort Complex/Commercial Resort Development may, but is not required to, include combinations of the following: a hotel/motel/inn, timeshare units, restaurants and other dining facilities, Places of Worship, commercial and retail facilities and offices, museums, picnic groves, amusement arcades, living history exhibit areas, commercial indoor or outdoor recreation uses, golf courses, golf driving ranges, miniature golf, riding stables, auditoria, conference facilities, amphitheaters, nightclubs, and other entertainment venues and Special Events (without limitation as to length of time or annual frequency of individual Special Events), taverns and other similar uses. All said facilities are not required to be limited to guests or residents of the Resort Complex/Commercial Resort Development, except as may be covered by state law (e.g. gaming facilities) and/or as may be a condition of the conditional use approval. Gaming/Gambling may be allowed as part of the Resort Complex/Commercial Resort Development if such establishments are licensed by the Commonwealth of Pennsylvania.
- C. Adult uses, as defined in this Chapter, are not permitted within a new or existing Resort Complex/Commercial Resort Development even if permitted in the underlying zoning district.
- D. Any Campground may be part of the Resort Complex/Commercial Resort Development provided such Campground shall meet the requirements for such use.
- E. A Senior Active Adult Development may be part of the Resort Complex/Commercial Resort Development provided such Senior Active Adult Development shall meet the requirements for such use, except as noted herein. Exceptions include the criteria as set forth in §062-020; §062-040.E. as it relates to private areas for individual units; §062-040.G. such that roads within the Resort Complex/Commercial Resort Development shall not be offered for dedication to the Township; and §062-050 such that accessory uses need not be dedicated exclusively to the Senior Active Adult Development.
- F. Once a Master Plan for a Resort Complex/Commercial Resort Development has been approved, then individual uses listed as allowed in a Resort Complex/Commercial Resort Development by the Conditional Use Approval shall be permitted and may be developed without additional conditional use approval, provided that otherwise applicable building permit and land development requirements are met.
- G. The area encompassing the Resort Complex/Commercial Resort Development shall be added to the Official Zoning Map as a “Resort Complex Overlay District.”

**§ 061-050. Buffer Requirements**

- A. Any non-residential principal building shall be set back a minimum of 75 feet from



any contiguous lot line of an existing dwelling that is not part of the Resort Complex/Commercial Resort Development. Within a minimum of 75 feet of any perimeter lot line or street right-of-way of a Resort Complex/Commercial Resort Development, other than along an arterial or collector street or abutting a commercial use, a buffer shall be maintained. This buffer width may be reduced to 40 feet when abutting the CON District.

- B. The applicant shall demonstrate that any existing healthy trees within this buffer will be maintained and preserved to the maximum extent feasible. It is intended that the removal of trees within a buffer shall be allowed, but subject to prior Township review and approval, for necessary approximately perpendicular street, stormwater channel, driveway and utility crossings and to provide safe sight distance and that the buffer be supplemented as needed and specified by this Chapter to serve the intended screening of dissimilar uses. The screening with evergreens, as specified in this Chapter, between dissimilar uses (e.g. residential and retail) is not required if the tree buffer would essentially serve the same purpose as an evergreen buffer. Where healthy mature trees do not exist within this buffer, and if practical, considering soil and topographic conditions, new trees shall be planted within this buffer meeting the specifications of this Chapter. The approval of any screening/buffer to remain, supplemented or newly planted, will be up to the sole discretion of the Board of Supervisors.

**§ 061-060.     Coverage.**

An applicant for a new Resort Complex/Commercial Resort Development may calculate the maximum building coverage and maximum impervious coverage under the provisions of the “Miscellaneous Performance Standards and Regulations” as set forth in this Chapter, based upon the entire Resort Complex/Commercial Resort Development, as opposed to each individual lot. However, in that case, appropriate deed restrictions or conservation easements shall be established that are enforceable by the Township to prove that the coverage limitations will be met over time. For example, a golf course on one lot may count towards meeting the impervious coverage limit of a hotel on another lot within the same Resort Complex/Commercial Resort Development.

**§ 061-070.             Trails and Pedestrian Walkways.**

A new and/or revised Resort Complex/Commercial Resort Development shall include a nonmotorized trail system, which at a minimum shall be open to guests, customers and/or residents of the Resort Complex/Commercial Resort Development. Improved pedestrian walkways shall also be provided between principal uses likely to produce cross visits (e.g., a hotel and restaurant).

**§ 061-080.     Traffic Access.**

- A. The number of traffic access points from a Resort Complex/Commercial Resort Development to an arterial or collector street shall be held to the minimum that is reasonably feasible, considering both immediate and long-term access. Extensions of internal streets, local streets and interconnections of parking areas shall be used to provide the safest traffic access that is feasible with the minimum interruption of traffic flow on existing public streets.
- B. If an internal traffic connection is not feasible immediately, provisions shall be incorporated into the conditional use approval and/or each development approval

(including, but not limited to, detailed engineering plans and escrow funds to cover the cost of said improvements) to provide for the eventual connection in phases.

- C. The applicant shall demonstrate that Resort Complex/Commercial Resort Development includes sufficient access from exterior streets and around buildings and facilities for emergency vehicles.

**§ 061-090. Maximum Height.**

Section 130-040 shall apply.

**§ 061-100. Density.**

- A. The maximum density provisions for dwellings are provided for each zoning district in this Chapter. A higher density and/or smaller lot sizes may be possible by using the conservation design development option provisions of Division 63 or the transfer of development rights provisions of the “Miscellaneous Performance Standards and Regulations” set forth in this Chapter. The conservation development provisions of Division 63 also include a possible density bonus for age-restricted or timeshare dwellings.
- B. If dwellings are located within a Resort Complex/Commercial Resort Development having an approved Master Plan that maximizes use of internal roads and interconnected driveways and parking areas, then the maximum total number of dwelling units that otherwise would be allowed may be increased by 10%, subject to the approval of the Board of Supervisors.

**DIVISION 62: SENIOR ACTIVE ADULT DEVELOPMENT**

**§ 062-010. Use Requirements.**

A Senior Active Adult Development is a residential community for active adults that meets the following requirements:

- A. Comprised of one or more dwelling unit types allowed in § 062-060 below.
- B. A statement shall also be included with each application for Conditional Use setting forth what particular features and facilities are being provided to serve specifically the needs and interests of the residents.
- C. Unit Occupancy.
  - 1) No more than four persons shall occupy a dwelling on a permanent basis, at least one of whom shall be 55 years of age or older. No persons under the age of 18 shall occupy a dwelling for more than three months in a calendar year.
  - 2) Declaration of Age Restriction. At the time of subdivision and/or land development, as a prerequisite to recording of any final plan approved, the developer shall record a declaration against the entire tract, in a form acceptable to the Township, binding all properties and owners to the restriction which shall require the residents of a Senior Active Adult Development residing in individual dwelling units within the subject development to be age 55 or older, and shall require that any resident of an individual dwelling unit within the Senior Active Adult Development

under 18 years of age shall not reside in that unit for more than three months in any calendar year.

**§ 062-020. Development Design Standards.**

The following standards shall apply to any Senior Active Adult Development. In the event of a conflict or contradiction between any regulation in the Zoning Ordinance or the SALDO, the standards set forth in this Chapter shall take precedence.

- A. Minimum Site Area. Five contiguous acres.
- B. Maximum Site Impervious Surface Ratio Including Building Coverage. 55% of adjusted tract area as defined elsewhere in this Chapter.
- C. Setbacks from Property Lines. Except as set forth below, no principal or accessory building shall be located closer than 50 feet from any tract boundary or 50 feet from the ultimate right-of-way of existing Township or state streets or highways. A gate house / guard house may be permitted within the required setback from an existing perimeter street.
- D. Maximum Density. In accordance with the following requirements, the maximum density for a Senior Active Adult Development shall be based on the proposed housing types that are noted below:
  - 1) For housing types A through G, the maximum density in a senior active adult development shall be five dwelling units per acre of adjusted tract area.
  - 2) For housing type H the maximum density shall be eight dwelling units per acre of adjusted tract area.
- E. Off-street Parking per Dwelling Unit. See § 050-010.
- F. Open Space.
  - 1) Not less than 50% of the gross tract area shall be retained as open space for recreation, leisure activities, resource protection, and site amenities. All such open space shall be subject to a recordable document in a manner and form acceptable to the Township.
  - 2) Open space having a dimension less than 30 feet in width or containing an individual area less than 15,000 square feet shall not be counted toward the minimum open space requirement.
  - 3) The development shall include an indoor community center with associated improvements and recreational uses. Fifty percent (50%) of the land occupied by the community center and other indoor and outdoor recreation facilities and the parking needed to serve them may count towards the minimum open space.
  - 4) The required open space shall not be utilized for central water facilities, central sewage facilities, or storm water management facilities, unless otherwise permitted by the Board of Supervisors at the time of land development and/or granted zoning relief by the Zoning Hearing Board.
  - 5) Open space areas shall be interconnected with open space areas on abutting parcels, wherever possible.

- 6) Dedication of Open Space shall not be required, but any such Open Space that is not offered for dedication to and/or accepted by the municipality shall be owned and maintained by a Homeowners Association or other entity pre-approved by the Board of Supervisors.
  - 7) Any land designated as open space under regulations of this Chapter must be made subject to a deed restriction prohibiting any future development. This shall be clearly noted on the plans and shall also run with the land and a Declaration setting forth such restrictions shall be duly recorded in the Monroe County Recorder of Deeds Office.
- G. Pedestrian and Vehicular Circulation. There shall be provisions for safe and efficient pedestrian and vehicular circulation within the boundaries of the site.
- H. Access to Public Streets. Provisions shall be made to ensure the safe and efficient ingress and egress to and from public streets and highways serving the site, without causing undue congestion to or interference with traffic flow throughout the region.
- I. Condominiums and Lots. The division of land into individual lots is not required; condominium ownership is permitted pursuant to the Pennsylvania Uniform Condominium Act, the Act of July 2, 1980, P.L. 286 No. 82 §1, et seq., 68 Pa. C.S.A. §3101, et seq. (the “Condominium Act”) and ownership of real estate or a Unit under the Pennsylvania Uniform Planned Community Act, the Act of December 19, 1996, P.L. 1336, No. 180, § 1, et seq., 68 Pa. C.S.A. §5101, et seq. (the “Planned Community Act”) is also permitted, all as amended from time to time.

**§ 062-030. Buffer Screening and Street Boundary Requirements.**

- A. Buffer. Along all exterior property boundary lines [Note: “Exterior property lines” are defined for purposes of this ordinance as a property line of record bounding the entire senior active adult development from adjoining property not included within or forming part of the senior active adult development and shall be noted as such on the plans.] there shall be a permanent twenty-five (25) foot wide landscape buffer with the following minimum required plantings:
- 1) One flowering (8 to 10 feet in height minimum) or canopy tree (2 to 2½ inch caliper minimum) per 40 feet of buffer, on average;
  - 2) Plus one evergreen tree (7 to 8 feet in height minimum) per 20 feet of buffer, on average;
  - 3) Plus one shrub (24 to 30 inches in height minimum) per four (4) feet of buffer, on average.
- B. Existing Features. All existing deciduous and coniferous trees larger than two inches in caliper and/or eight feet in height and located within the above-referenced landscape buffer may be considered to contribute to the definition of an existing buffer on the property within the discretion of the Township. If the amount of existing plant material, which is that size or greater, equals any of the planting requirements, the equivalent reduction of required plant material may be taken, at the sole discretion of the Board of Supervisors. In all cases, existing plant material of the above caliper and height shall be preserved in any buffer yard, except where clearance is required to

insure adequate sight distance. Any removal shall, where feasible, involve relocation rather than clearing.

- C. Extensive Setbacks. Where principal and accessory buildings are set back at least 250 feet from a property boundary line or existing perimeter street ultimate right-of-way, buffering may not be required, at the sole discretion of the Board of Supervisors.
- D. Maintenance. All required plantings shall be maintained permanently, and, in the event of death or other destruction, shall be replaced within six months by the party responsible for maintenance when death or destruction occurred.
- E. Buffer Landscape Plan. A landscape plan shall be submitted with the final plans showing all pertinent information, including the location, size and species of individual trees and shrubs to be preserved or planted; and where appropriate, the landscape plan shall show the general characteristics of existing vegetation masses which are to be preserved.

**§ 062-040. General Requirements.**

- A. Central Water and Central Sewer. All dwelling units and other buildings within a Senior Active Adult Development shall be served by a publicly or privately owned central sanitary sewage collection, treatment and disposal system and a central potable water supply, treatment, storage and distribution system.
- B. EMS Access. The applicant shall demonstrate that all proposed site and building facilities are accessible to emergency medical service providers.
- C. Conditional Use Application. The Conditional Use application shall include the following:
  - 1) Appropriate design plans and/or specifications of the entire site shall conform with the requirements for land development.
  - 2) Proposed phasing of the entire site plan.
  - 3) Sufficient photographs depicting the different character areas within the site.
  - 4) Appropriate engineering/planning responses to any identified or suspected site development problems.
  - 5) Schematic architectural plans and elevations of the proposed buildings.
  - 6) Other related information required to support the application.
  - 7) A set of regulations to control such operation, including definition of age and income limitations to be placed upon the residents or their activities, admissions procedures and security provisions, and setting forth the policy to be used in determining the amount of rental and other charges to the residents. The applicant must show, in order to qualify, that single prospective residents of each housing unit have attained the age of at least 55 years or that families that occupy such units

- are elderly families (i.e. families whose head of household or their spouses are at least 55 years of age or are under a disability as defined by the Social Security Act<sup>47</sup> or the Developmental Disabilities Services and Facilities Construction Amendments<sup>48</sup>, both as amended from time to time). A statement shall also be included with each application setting forth what particular features and facilities are being provided to serve specifically the needs and interest of the residents.
- 8) The plan shall also show the proposed sewer and water facilities, as well as other proposed utilities, including but not limited to, telephone, cable, and electric service, common areas, open space delineations and any other proposed improvements.
- D. Common Areas and Facilities. Provisions shall be made for the perpetual maintenance, care and ownership of all common areas including streets, driveways, parking areas, walkways, landscaped planting areas, open space, recreation and utility systems, by a homeowner's association or other entity as approved by the Board of Supervisors.
- E. Minimum Private Area.
- 1) For each townhouse dwelling, there shall be a yard, balcony, patio or other outdoor area other than a driveway immediately adjacent to the front, back or side of each dwelling of not less than 200 square feet.
  - 2) For each multi-family/apartment dwelling, there shall be a yard, balcony, patio or other outdoor area other than a driveway immediately adjacent to the front, back or side of each dwelling of not less than 60 square feet.
  - 3) Where practical, design measures shall be used to seek an appropriate level of privacy in any rear yards. Such measures may include landscaping, compatible fencing, walls, and/or earthen berms. All such measures shall be identified by the applicant at the time of Conditional Use application, shall comply with other applicable Township regulations and shall be subject to review and approval by the Township.
- F. Other Facilities. Such other improvements including streets, curbs and stormwater collection and control facilities, as required by the SALDO<sup>49</sup>, the County Conservation District, DEP and Penn DOT, shall be provided.
- G. Streets. All private and public streets and accessways shall be built to Township construction standards for public streets. Any and all streets within the Senior Active Adult Development may be offered to the Township for dedication and the Township shall have the sole discretion to accept or reject such offer of dedication. The Township shall not be obligated to accept any street within the Senior Active Adult Development.

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<sup>47</sup> Editor's Note: See 42 U.S. C. § 301 et seq.

<sup>48</sup> Editor's Note: See 42 U.S.C. § 75 et seq.

<sup>49</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

- H. Mailboxes. Mailboxes shall be located where permitted by the United States Postal Service (“USPS”) which may include, but shall not be limited to, cluster mailboxes or individual freestanding curbside mailboxes. The location(s) and design(s) of the mailbox facilities and areas shall be clearly detailed on the plans. In instances where the USPS requires cluster mailboxes, elevations and details, to include appropriate safety lighting and shelter structure(s), of the cluster mailbox facilities shall be provided for review and approval by the Township, provided, however, such approval shall be consistent with applicable requirements of the USPS.
- I. Trash Bins. For any multi-family / apartment dwelling, common trash and recycling receptacles shall be provided in locations that are convenient for residents and for collection. Screening (in the form of structures, fencing or dense landscaping) shall be required for all such areas in order to shield the view of such areas to the satisfaction of the Township. The location(s) and design(s) of the common trash and recycling areas shall be clearly detailed on the plans. Elevations and details shall be provided for review and approval by the Township.
- J. Lighting Plan. An overall lighting plan shall be provided for review and shall be subject to review and approval by the Township.
- K. Utilities. All utilities servicing any and all parts of the Senior Active Adult Development shall be installed underground.
- L. The development shall be located on or have direct access to an existing arterial or collector street (See Appendix C<sup>50</sup>). No dwelling unit shall have its own access driveway entering onto an existing street. All access shall be from internal streets.
- M. Each dwelling unit shall contain, at a minimum, all of the following elements:
- 1) A kitchen equipped with at least a sink, storage facilities, a stove or range and a refrigerator.
  - 2) A bathroom equipped with a sink, toilet, and either a bathtub equipped with a shower or a stall shower.
  - 3) A living area, dining room and at least one bedroom.

**§ 062-050. Accessory Uses**

These uses shall be specifically restricted to serve only the residents of the Senior Active Adult Development and their invited guests and shall include one or more of the following uses which shall be subject to the following provisions:

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<sup>50</sup> Editor’s Note: Appendix C, Functional Classification of Streets, is included at the end of this chapter.

- A. A community center shall at a minimum consist of a meeting/activity room, physical fitness center, and lounge area. The minimum size of the facility shall be equivalent to at least 75 square feet of interior clubhouse facility building area per dwelling unit for the first 50 dwelling units and an additional 20 square feet of interior clubhouse facility building area per dwelling unit for each dwelling unit thereafter. In addition, sales and management offices may be located in the Community Center but shall not be within the required amount of community center square footage.
- B. Recreation facilities such as, but not limited to, swimming pool(s), tennis court(s), bocce facilities, shuffle board facilities, putting greens, chip and putt courses, hiking and/or walking trails, pickleball courts, and other recreational facilities appropriate for Senior Active Adult Communities.
- C. Elevations and details of the proposed recreational facilities shall be provided as part of the Land Development Plan submission.
- D. Parking for the Community Center/Clubhouse shall be provided as required by this Chapter or other regulations of the Township.
- E. Guard station and/or mechanical entrance gate(s) are allowed along private streets.
- F. All of the recreational amenities shall be shown on the preliminary subdivision and/or land development plan plat. The clubhouse shall be completed before twenty-five percent (25%) of the dwelling units are occupied.

**§ 062-060.     Housing Types.**

The following housing types are permitted in each of the zoning districts noted in Article IV of this Chapter, when proposed as part of a Senior Active Adult Development. The dimensional requirements for each housing type are provided in the table in 200 Attachment 8.

- A.     Single-Family Detached.
- B.     Duplex.
- C.     Twin.
- D.     Courtyard Cluster Housing. A group of three to eight single-family detached dwellings with private yards on all sides of the house and with public or community open space. Dwelling units are sited together with a common street access, are closely spaced, and share a common front courtyard. Courtyard Cluster Housing units may be condominiums or units. [Note: The terms “condominium” and “unit” as used herein shall have the same meaning and definition as utilized in the Condominium Act and the Planned Community Act, as amended.]
  - 1) Dwellings shall be arranged in clusters of any combination of between three and eight dwelling units. The clusters shall have a minimum 25 feet of separation from other clusters. Garages shall be integral with each dwelling unit and cannot be used to meet the minimum required living area.



- 2) All internal motor courts serving each Courtyard Cluster shall have a minimum paved width of 24 feet for safe and efficient vehicle circulation.
- 3) Each cluster shall be:
  - a. Served by a street system which is designed to minimize through traffic; and
  - b. Served by a pedestrian circulation system which serves the development.
- E. Townhouse. A single-family attached dwelling unit with one dwelling unit from ground to roof, having individual outside access. Townhouse units may be condominiums or units. Townhouses may be placed side-to-side or back-to-back. If placed back-to-back, the rear yard may be met along one of the sides.
  - 1) Dwellings shall be arranged in groups or clusters and not in long rows parallel to street lines. No less than three (3) and no more than eight (8) dwelling units may be so attached in any one group.
  - 2) To create architectural interest in the layout and character of housing fronting streets, various setbacks, materials and design shall be encouraged. In any case, a minimum of two (2) feet variation in setback shall occur at least every third dwelling.
- F. Senior Mid-Rise. A grouping of dwelling units sharing common elements which are specifically designed for the needs of senior citizens. Shared common elements may include, but are not limited to, entrance areas, corridors and community rooms. A senior Mid-rise shall have elevator access to all floors. All units and common areas of the building must comply with current Americans with Disabilities Act (ADA) <sup>51</sup> Accessible Guidelines.

## **DIVISION 63: CONSERVATION DEVELOPMENT OPTION.**

### **§ 063-010. Purpose and Intent.**

The purpose of the Conservation Development Option is to allow flexible development of areas with sensitive natural features in such a way as to:

- A. Avoid severe soil erosion and sedimentation;
- B. Avoid severely increased storm water flows and speeds;
- C. Steer development to those areas that are more physically suited for it;
- D. Avoid construction of steep roads that are difficult, time-consuming, and expensive to maintain and snow plow;

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<sup>51</sup> Editor's Note: See 42 U.S.C. § 12101 et seq.

- E. Avoid increased use of steep roads and driveways that are dangerous to drive upon in snow and ice;
- F. Conserve forested, steep slope, agricultural and wetland areas that are an important part of the ecological cycle, providing for groundwater recharge, air pollution reduction and wildlife habitats;
- G. Reduce construction costs;
- H. Allow each property owner a reasonable use of their land, related directly to the natural features and location and accessibility of the land;
- I. Provide for the preservation of significant areas of preserved open space; and
- J. Recognize that groundwater supplies and the ability of the ground to treat sewage wastes are limited and may become overtaxed if the entire Township is developed in one-acre-minimum lots from end to end.

**§ 063-020.     Applicability.**

This Division allows an applicant the option to reduce the minimum lot areas on a tract of land if the applicant proves to the satisfaction of the Township that all of the requirements of this Section will be complied with. These provisions are intended to allow flexibility in the placement of individual dwelling units, in order to locate homes away from important natural areas and other community assets and to preserve open space.

- A. The term "Conservation Development" shall mean a residential development that meets the requirements of this Section and which is approved as a Conservation Development.
  - 1) Uses. Except as specifically allowed otherwise, a Conservation Development shall only include the following uses: single family detached dwellings, "conservation open space," Township-owned recreation, and their customary permitted accessory uses. A mobile/ manufactured home shall not be allowed in a Conservation Development and a mobile/ manufactured home park shall not qualify as a Conservation Development.
- B. A tract may be eligible for approval for a Conservation Development if it includes a minimum of 4 acres of lot area in common ownership, except that such minimum shall be increased to 10 acres in the RR District. Such land area shall be contiguous, except that portions of the tract may be separated only by existing or proposed streets or creeks. This Chapter (Table of Use Regulations)<sup>52</sup> shall govern when a Conservation Development is allowed in a zoning district.
  - 1) The minimum amount of conservation open space shall be based upon the Total Tract Area.

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<sup>52</sup> Editor's Note: The Table of Use Regulations is included at the end of this chapter.

- a. However, only 50 percent of land area with slopes greater than 25 percent shall count towards the minimum amount of conservation open space. Only 50 percent of land area that includes wetlands shall count towards the minimum amount of conservation open space. Only 50 percent of land area that is within the 100 year floodplain shall count towards the minimum amount of conservation open space. Therefore, for example, if 10 acres of conservation open space is required; the natural features of the proposed conservation open space must be considered. If the applicant proposed to meet this requirement with 10 acres of land with over 25 percent slope, that would be insufficient. This is because the 10 acres of over 25 percent slope would only be counted as being equal to 5 acres of conservation open space. As a result, the applicant would need to provide an additional 5 acres of conservation open space that is not greater than 25 percent slopes, wetlands or within the 100 year floodplain.
  - 2) Areas that were preserved by a conservation or agricultural preservation easement *prior* to the submittal of the subdivision shall not be counted towards the Tract Area or Adjusted Tract Area in calculating conservation open space or allowed density.
  - 3) Areas used for a principal non-residential use (other than uses approved by the Township to be part of the Conservation Open Space) shall not be included within the tract area used to calculate allowed density. Note -Other provisions of this Section address when a golf course may be included in the Conservation Open Space.
  - 4) Conservation easements shall be established on lots to prevent further subdivision and/or land development, as necessary to make sure that the maximum density requirement is met over time. Such conservation easements shall prevent the re-subdivision of lots in a manner that would violate this Section.
- C. A Conservation Development shall be designed as a unified, coordinated residential development, and shall be approved within a development plan controlled by a single development entity. After final subdivision approval and within an approved development agreement(s), a developer may sell individual lots to different builders or home buyers, provided that the developer or his/her successor remains responsible for ensuring the compliance with the approved development plan.
- D. The application shall be provided to the Planning Commission and Board of Supervisors for review of zoning compliance.
- E. See the Site Design Process in the SALDO Chapter<sup>53</sup> to guide the applicant in the layout of the Conservation Development.

**§ 063-030.      Density. Open Space and Lot Standards.**

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<sup>53</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

A. Density Bonuses:

- 1) The maximum number of dwelling units allowed on the tract through Conservation Development shall be no more than 25 percent greater than would otherwise be allowed if:
  - a. All dwelling units on the tract would be permanently limited in occupancy to at least one person age 55 and older, with no residents under age 18; or
  - b. All dwelling units on the tract would be permanently limited to being time-share units that are owned by a minimum 4 different landowners, with no person residing on the premises more than 100 days per year, other than a manager and his/her family.
- 2) The maximum number of dwelling units allowed on the tract through Conservation Development shall be no more than 10 percent greater than would otherwise be allowed if the amount of Conservation Open Space equals at least an additional 10 percent of the Adjusted Tract Area, beyond what would otherwise be required. For example, if 50 percent Conservation Open Space is required in a district, then the density may be increased by up to 10 percent if at least 60 percent Conservation Open Space would be provided.
- 3) Density bonuses "A(1)a." and "A(1)b." above may be added together. Therefore, if a development qualifies for both density bonuses, then the maximum density would be 35 percent greater than would otherwise be allowed. The increase in density can be no higher than 35 percent.

B. Within a Conservation Development, except where specifically provided otherwise in this Section, the only allowed dwelling units shall be single family detached dwellings, except as provided in subsection D below. The following minimum lot areas shall apply, provided that the total maximum density for the tract is not exceeded:

- 1) "On-lot" means on-lot well and sewage systems. "W&S" means service by both Township-approved central water and sewage systems. "sf" means square feet.

Zoning District	For Conventional Development -Minimum Lot Area per Dwelling Unit *-For information purposes. (See actual requirements elsewhere in this chapter)	For Conservation Development - Average Minimum Lot Area per Dwelling Unit *-For Purposes of Determining Maximum Number of Dwelling Units see "Site Capacity Calculations" in this chapter	For Conservation Development -Minimum Lot Area per Dwelling Unit - Without Both W&S	For Conservation Development -Minimum Lot Area per Dwelling Unit - With either central sewer (Alt #1)or both W&S (Alt#2)	For Conservation Development: Minimum Percentage of the Total Tract Area Required to be in Conservation Open Space
RR Rural Reserve District	5 acres	2 acres	1 acre**	21, 780 sf	50%
R1 Residential Density	2 acres	1 acre	32,670 sf **	Alternative 1: 21,780 sf	50%
				Alternative 2: 15,000 sf	
R2 Residential District	1 acre without central W&S; 21,780 sf with Both W&S.	1 acre without W&S; 15,000 sf with Both W&S	32,670 sf **	Alternative 1: 21,780 sf	50%
				Alternative 2: 10,000 sf	

\* The maximum number of dwelling units on a tract of land shall be determined based upon the "Adjusted Tract Area" as provided for elsewhere in this Chapter. (Note: To determine the Adjusted Tract Area, percentages of certain features of land are deleted, such as percentages of areas with very steep slopes. The resulting land area is then divided by the minimum lot area [or multiplied by a maximum number of units per acre] to determine the number of allowed dwelling units on the tract.) When determining the minimum lot area per dwelling unit in a Conservation Development, the required conservation open space is not deducted from the Adjusted Tract Area. The requirement of the "Adjusted Tract Area" as provided for elsewhere in this chapter is in addition to proving that each lot meets the minimum lot area requirement (which does not by itself require consideration of Adjusted Tract Area).

\*\* See the subsection below concerning lot sizes and location requirements for septic and sewage systems.

C. Reduction of Setbacks and Lot Widths.

- 1) The following minimum lot widths shall apply for single family detached dwellings within a Conservation Development:

<b>REQUIRED MINIMUM LOT AREA (SQUARE FEET)</b>	<b>MINIMUM LOT WIDTH AT MINIMUM FRONT YARD SETBACK LINE (FEET)</b>
43,560 or larger	150
21,780 to 43,559	120
15,000 to 21,779	100
10,000 to 14,999	70

- 2) The following minimum yards shall apply for single family detached dwellings within a Conservation Development:

<b>REQUIRED MINIMUM LOT AREA (SQUARE FEET)</b>	<b>MINIMUM YARD WIDTHS:(FEET)</b>		
	<b>front</b>	<b>Each side</b>	<b>rear</b>
43,560 or larger	40	20	40
21,780 to 43,559	30	15	40
15,000 to 21,779	30	15	30
10,000 to 14,999	30	10	20

D. Attached Dwellings in a Conservation Development.

- 1) In the R1 or R2 Residential Districts, in addition to single family detached dwellings, townhouses and duplex dwellings shall also be allowed if they will be served by Township approved central water and central sewage services. In such case, the townhouses and duplex dwellings shall meet the requirements that are listed in the Table of Performance Standards (Attachment 11) in this Chapter for standards that would apply in the R3 district, except that the following additional requirements shall apply:
- a. In the R1 district, a minimum of 75 percent of the total tract area shall be permanently preserved in Conservation Open Space. To determine the maximum density within the subdivision or land development, the adjusted tract area as calculated by this chapter shall be divided by 32,670 square feet to determine the maximum number of dwelling units.
  - b. In the R2 district, a minimum of 60 percent of the total tract area shall be

permanently preserved in Conservation Open Space. To determine the maximum density within the subdivision or land development, the adjusted tract area as calculated by this chapter shall be divided by 21,780 square feet to determine the maximum number of dwelling units.

E. Utilities. Any lot of less than 32,670 square feet shall be served by Township-approved central sanitary sewerage service. While a central water system is recommended for lots less than 32,670 square feet they are not required until lots are less than one-half acre (21,780 sf).

- 1) A community septic system drain field shall not be allowed within the Conservation Open Space. Said system must be located on a separate lot that is owned by a community association made up of those lots that are served by the community system. The system shall be professionally operated and maintained, with each homeowner legally bound to fund such system.
- 2) Community water supply wells may be located within the Conservation Open Space. Proper easements shall be required if any community well will be within the Conservation Open Space.
- 3) Spray irrigation or drip irrigation for a community sewage system may be located within the Conservation Open Space, provided the system is professionally operated and maintained.
- 4) Land occupied by a wastewater or water supply treatment plant or storage tank or treatment lagoon shall not be located in the Conservation Open Space. Said facilities must be located on a separate lot that is owned by a community association made up of those lots that are served by the community system.

F. Conservation Development shall not be combined with Transfer of Development Rights.

G. Subdivision of Only Part of a Tract. This subsection addresses a situation in which only part of a lot is proposed to be subdivided, and the applicant at the present time does not intend to subdivide for the maximum number of dwellings allowed by this chapter. In such case, the applicant shall provide sufficient conservation open space that corresponds to the portion of the tract that is being used to meet the ordinance requirements.

- 1) See the SALDO Chapter<sup>54</sup>, which may allow the required open space to be retained as part of the parent tract, using a conservation easement.
- 2) The land under the conservation easement shall be a regular shape, such as a rectangle, and shall be located in such a manner as to allow it to adjoin land that could be added under a conservation easement in the future.
- 3) For informational purposes only: the following hypothetical example assumes a lot includes 50 acres, and the calculations under this Chapter determine that the applicant for a Conservation Development is allowed a total of 30 new dwellings.

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<sup>54</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

In this example, the applicant only wishes to subdivide lots for 10 new dwellings at the present time, which is one-third of the total number of allowed dwellings. In this example, 25 acres of Conservation Open Space would have been needed if the entire tract was developed as single family detached units. Because only one-third of the allowed dwelling units are being approved, then the conservation easement at this time would only need to apply to one-third of 25 acres, which is 8.25 acres. The 8.25 acres under the conservation easement would need to be placed on the tract at a location where it could be joined by the remaining 16.75 acres of land under a conservation easement if the applicant in the future decided to subdivide lots for the remaining 20 dwelling units that are allowed.

**Sec 063-040. Conditions for Approval.**

- A. The applicant shall prove that the Conservation Open Space will be suitable for its intended purposes and will comply with the Conservation Open Space requirements.
- B. The applicant shall prove that the proposed Conservation Development has been designed in full consideration of important natural features, including mature woodlands, creek valleys, steep slopes and wetlands. The applicant shall demonstrate that the site layout was prepared following the "Four Step Design Process" as provided in the SALDO chapter<sup>55</sup>.
  - 1) At a minimum, the applicant shall prove that areas along perennial creeks shall be preserved in their natural state, except for landscaping, erosion control improvements, public recreation improvements and needed utility, street and driveway crossings.
  - 2) The natural features of the site shall be a major factor in determining the location of dwelling units and streets.

**§ 063-050. Open Space.**

- A. Open Space Uses and Design. Open Space within a Conservation Development shall meet the requirements for Conservation Open Space in the SALDO Chapter<sup>56</sup>. Land used to meet the requirements for the minimum amount of Conservation Open Space shall also comply with all of the following standards:
  - 1) A Conservation Development is not required to meet the "common open space" land or recreation fee requirements of the SALDO chapter.
  - 2) Conservation open space shall be permanently deed-restricted or protected by an appropriate conservation easement to prevent the following: (1) construction of buildings (other than as necessary to support maintenance of the open space or agricultural uses), (2) use for any commercial purposes, other than agricultural uses or a golf course, or (3) clear cut forestry.

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<sup>55</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

<sup>56</sup> Editor's Note: See Ch. 170, Subdivision and Land Development



- 3) Land approved as Conservation Open Space shall only be used for non-commercial active or passive recreation, a Christmas Tree Farm, a golf course, a nature preserve, a wholesale plant nursery and/or Township-approved agricultural uses. Areas occupied by any buildings or parking lots shall not count towards the minimum conservation open space. In order for a Christmas Tree Farm or a wholesale plant nursery to count as the minimum open space, trees must regularly be replanted.
  - 4) The Township may require the use of conservation easements within a Conservation Development to limit the disturbance of natural slopes over 15 percent, wetlands, mature forests, creek valleys and other important natural features.
  - 5) Lots and open spaces shall be located to promote pedestrian and visual access to preserved open spaces whenever possible.
  - 6) Conservation Open Space shall not permit use of motorized off-road recreational vehicles or firearm target ranges.
  - 7) Underground utility rights-of-way and easements may be located within the Conservation Open Space. Above-ground electric transmission rights-of-ways and street rights-of-way may traverse Conservation Open Space but shall not count toward the minimum required Conservation Open Space.
- B. Conservation Open Space Ownership. Land within a Conservation Development may be permanently preserved as public, semi-public or privately-owned "Conservation Open Space."
- 1) The Township shall only approve a Conservation Development if the applicant proves there will be an acceptable method to ensure permanent ownership, preservation and maintenance of land that will not be included in individual home lots.
  - 2) The method of ownership, use and maintenance responsibilities of conservation open space shall be determined prior to final subdivision or land development approval, and shall be acceptable to the Township. Required conservation open space shall be owned by one or a combination of methods that is authorized by the SALDO chapter.
  - 3) Legal documents providing for ownership and/or maintenance of Conservation Open Space shall be reviewed by the Township Solicitor and be subject to approval by the Board of Supervisors prior to approval and recordation of the final plan.

**§ 063-060. Steep Slopes.**

See provisions limiting alteration of steep slopes in the SALDO Chapter<sup>57</sup>. Steep slopes shall not

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<sup>57</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

be regraded prior to submitting a subdivision or land development plan.

**§ 063-070.     Access.**

A Conservation Development shall have an interior street system that serves all lots/units within the Conservation Development.

**§ 063-080.     Phasing.**

The development shall include a phasing system that shall be approved by the Board of Supervisors. Such phases shall ensure that the requirements of this Section would be met after the completion of any one phase, and that the development could properly function without the construction of additional phases.

**§ 063-090.     Trails.**

The Township may require that the developer provide a non-motorized trail easement and/or construct a trail through conservation open space. If a developer is required to install a trail, it shall be completed prior to the final sale of any adjacent residential lots.

**DIVISION 64:     AIRPORT OVERLAY DISTRICT**

**§ 064-010.     Purpose.**

The purpose of this Airport Overlay District is to create an airport overlay district that considers safety issues around any future airport within the Township and particularly the present, Stroudsburg – Pocono Airport<sup>58</sup>, regulate and restrict the heights of constructed structures and objects of natural growth, create appropriate zones, establish the boundaries thereof and provide for changes in the restrictions and boundaries of such zones, create the permitting process for use within said zones and provide for enforcement, assessment of violation penalties, an appeals process and judicial review.

**§ 064-020.     Relations to Other Zone Districts.**

The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

**§ 064-030.     Definitions.**

The following words and phrases when used in this Division shall have the meaning given to them in this Section unless the context clearly indicates otherwise.

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<sup>58</sup> Editor's Note: Appendix B1, Stroudsburg-Pocono Airport Surface Areas, is included at the end of this chapter.

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

**AIRPORT HAZARD** - Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at the airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §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 Chapter and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation)<sup>59</sup>.

**APPROACH SURFACE (ZONE)** - An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 1<sup>60</sup>, is derived from the approach surface.

**CONICAL SURFACE (ZONE)** - An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 1<sup>61</sup>, is based on the conical surface.

**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 Chapter and shown on the Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**HORIZONTAL SURFACE (ZONE)** - An imaginary plan 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 1<sup>62</sup>, is derived from the horizontal surface.

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

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<sup>59</sup> Editor's Note: See 74 Pa.C.S.A. § 5101 et seq.

<sup>60</sup> Editor's Note: Figure 1 is included at the end of this chapter.

<sup>61</sup> Editor's Note: Figure 1 is included at the end of this chapter.

<sup>62</sup> Editor's Note: Figure 1 is included at the end of this chapter.

NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Division or an amendment thereto.

NON-PRECISION 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 non-precision 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 by this Division.

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 (ZONE) - An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1<sup>63</sup>, is derived from the primary surface.

RUNWAY – A defined area of 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 SURFACE (ZONE) - An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 1<sup>64</sup>, is derived from the transitional surface.

TREE – Any object of natural growth.

UTILITY RUNWAY – A runway that is constructed for an 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.

#### **§ 064-040.      Establishment of Airport Zones.**

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<sup>63</sup> Editor's Note: Figure 1 is included at the end of this chapter.

<sup>64</sup> Editor's Note: Figure 1 is included at the end of this chapter.

There are hereby created and established certain zones within the Airport District Overlay, defined in Section 064-030 herein and depicted on Figure 1<sup>65</sup> as follows:

- A. Approach Surface Zone
- B. Conical Surface Zone
- C. Horizontal Surface Zone
- D. Primary Surface Zone
- E. Transitional Surface Zone

**§ 064-050. Permit Applications.**

As regulated by Act 164<sup>66</sup> and defined by 14 Code of Federal Regulations Part 77.13(a), as amended or replaced, any person who plans to erect a new structure, add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, *shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof.* The Department's BOA response must be included with this permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Overlay District. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in Section 064-060 herein.

No permit is required to make maintenance repairs to or replace parts of existing structures which do not enlarge or increase the height of an existing structure.

**§ 064-060. Airport Overlay District Variance.**

Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

- A. No objection. The subject construction is determined not to exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.

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<sup>65</sup> Editor's Note: Figure 1 is included at the end of this chapter.

<sup>66</sup> Editor's Note: See 74 Pa.C.S.A. § 5101 et seq.

- B. Conditional Determination. The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Section 064-090, herein, Obstruction Marking and Lighting.
- C. Objectionable. The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

**§ 064-070.      Use Restrictions.**

Notwithstanding any other provisions of this Article, no use shall be made of land or water within the Airport Overlay District in such a manner as to create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Airport.

**§ 064-080.      Pre-Existing Non-Conforming Uses.**

The regulations prescribed in 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 Chapter, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance), may only be reestablished consistent with the provisions herein.

**§ 064-090.      Obstructions Marking and Lighting.**

Any permit or variance granted pursuant to the provisions of this Article may be conditioned according to the process described in Section 064-060 herein to require the owner of the structure or object of natural growth in question to permit the Township, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

**§ 064-100.      Violations and Penalties.**

Violations and Penalties shall be under and subject to the rules and regulations set forth in this Chapter.

**§ 064-110.      Appeals.**

Appeals shall be under and subject to the rules and regulations set forth in this Chapter.

**§ 064-120.      Conflicting Regulations.**

Where there exists a conflict between any of the regulations or limitations prescribed in this Division and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

**ARTICLE VII: RESERVED**



## **ARTICLE VIII: ADMINISTRATION**

### **DIVISION 80: GOVERNING BODY**

#### **§ 080-010. Exclusive Jurisdiction.**

Pursuant to the MPC, as amended from time to time, the Middle Smithfield Township Board of Supervisors shall have exclusive jurisdiction to hear and render a decision in the following matters:

- A. Applications for Planned Residential Developments;
- B. Applications for subdivision and land development;
- C. Applications for conditional use;
- D. Applications for curative amendments;
- E. Petitions for amendments to land use ordinances;
- F. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance with reference to sedimentation and erosion control and storm water management insofar as they relate to a Subdivision and Land Development application; and
- G. Applications for a special encroachment permit.

#### **§ 080-020. Liability.**

Any review of activity within the floodplain review, site plan review, subdivision and land development review, erosion control review, wetland delineation review, storm water management review, steep slope review, or any other review, approval or permit under this Chapter by an officer, employee, board, commission, solicitor, consultant, engineer or agency of the Township shall not constitute a representation, guarantee or warranty of any kind by the Township or its employees, officials, boards, solicitor(s), engineer(s), consultant(s), or agencies of the practicality or safety of any structure, use, subdivision or land development, and shall create no liability upon nor a cause of action against the Township, entity or person for any damage that may result pursuant thereto.

#### **§ 080-030. Fees.**

A Township fee schedule for permits and applications may be established and amended by written resolution of the Board of Supervisors. No application or appeal shall be considered filed until all fees are paid.

**§ 080-040.     Amendments to this Chapter.**

The Board of Supervisors may amend and/or repeal any or all portions of this Chapter on its own motion or after agreeing to hear a written request of any person, entity, landowner or the Planning Commission.

**DIVISION 81:       ZONING OFFICER(S)**

**§ 081-010.     Appointment.**

The Zoning Officer shall be appointed by the Board of Supervisors and shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning regulations. The Zoning Officer shall serve for such period as the governing body shall direct and shall receive such compensation as the governing body shall fix. The Board of Supervisors may designate other Township staff-persons to serve as Assistant Zoning Officer(s) who shall also meet qualifications established by municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning. Assistant Zoning Officer(s) shall serve for such period as the governing body shall direct and shall receive such compensation as the governing body shall fix. An Assistant Zoning Officer(s) may serve with the same authority and duties as a Zoning Officer. Neither a Zoning Officer nor any Assistant Zoning Officer shall hold any elected office within the Township, but may hold other appointed offices.

**§ 081-020.     Duties and Powers.**

The duties and powers of the Zoning Officer shall include the following:

- A.     Administer the Zoning Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter;
- B.     To receive and examine all applications for zoning permits and shall issue or deny a zoning permit in accordance with the provisions of this Chapter;
- C.     To receive applications for Conditional Use, Use by Special Exception or requests for a Variance and forward these applications to the Township Planning Commission, the Board of Supervisors, and/or the Zoning Hearing Board for action thereon in accordance with all applicable provisions of this Chapter;
- D.     Shall have the right at any reasonable hour and after giving appropriate notice to make an inspection of buildings or land necessary for the proper execution of his/her duties and shall issue a written notice of violation to any person, firm or corporation violating any provision of this Chapter;

- E. Maintain records, whether issued or denied, of all applications, including permits, certificates of compliance and non-conformity, written decisions, variances, enforcement orders, reports and inspections;
- F. Maintain map(s) showing current zoning classifications of all land within the Township;
- G. At the request of the Governing Body, Planning Commission or Zoning Hearing Board shall review subdivision and land development applications for compliance with this Chapter;
- H. Receive and act upon any written complaint alleging a zoning violation;
  - 1) A record of all written complaints and action taken shall be kept and maintained by the Zoning Officer;
  - 2) A Zoning Officer shall not act upon any oral or unsigned complaint unless he/she deems it advisable or necessary to maintain the health, safety and/or welfare of the citizens of the Township;
  - 3) Complaints involving intrusion into required yard setbacks shall be accompanied by verifiable proof of the alleged violation;
  - 4) Complaints not involving a violation of a township ordinance or the Code shall not be acted upon by a Zoning Officer but shall be deemed a private matter.
    - a. The determination of the course of action on any complaint shall be made by the Zoning Officer after proper investigation.
- I. At the request of the Governing Body, the Planning Commission or the Zoning Hearing Board, present facts, records, reports and/or testimony;
- J. Shall issue certificates of compliance, after a personal on-site inspection, to verify that the work is in conformity with all provisions of the zoning permit;
- K. Issue written stop, cease and desist orders, and issue written directive(s) for the correction of violations found;
- L. Institute, in the name of the Township, any appropriate action and/or enforcement proceedings to insure full compliance with this Zoning Ordinance, as amended from time to time;
- M. Following refusal to issue a zoning permit, the Zoning Officer shall receive applications for interpretations, appeals and variances and forward these applications to the Zoning Hearing Board for action thereon;

- N. Revoke any order or permit issued under a mistake of fact, contrary to the law or a Township ordinance, or as a result of false and/or fraudulent information upon which the Zoning Officer or Zoning Hearing Board relied upon in issuing said order or permit; and
- O. Serve such other functions as provided in this chapter and the Municipalities Planning Code.

**§ 081-030.     Liability.**

If the Zoning Officer mistakenly issues a permit under this Chapter, the Township shall not be liable for any later lawful withdrawal of such permit.

**§ 081-040.     Issuance of Violations.**

The Zoning Officer shall issue a notice of violation to any landowner, person or entity that shall commit or who shall permit any of the following actions to be committed in violation of this Chapter:

- A. Failure to secure a zoning permit prior to a change in use of land or structure;
- B. Failure to secure a zoning permit prior to the erection, construction, demolition and/or modification of any structure or portion thereof;
- C. Failure to secure a zoning permit prior to the excavation of land to prepare for the erection, modification, construction and/or alteration of any structure or portion thereof;
- D. Placement of false statements on, or omitting relevant information from, an application for a zoning permit;
- E. Undertaking an action in a manner which does not comply with a zoning permit; and/or
- F. Violation of any condition imposed by a decision of the Zoning Hearing Board or the Board of Supervisors.

**§ 081-050.     Enforcement.**

- A. General. If it appears that a violation of the zoning ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided for in the MPC and notify, in writing, the governing body. Prior to sending an official enforcement notice, the Zoning Officer may, at his/her discretion, informally request compliance
- B. Formal notice. An official enforcement notice shall be sent via certified mail, return receipt requested and postage prepaid, to the owner of record of the parcel on which

the alleged violation has occurred, to the address the owner of record has provided to the Township or, if none given, to the most-recent address maintained with the Monroe County Tax Assessment Office or Tax Claim Bureau for real estate tax notifications, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. Formal Notice may also be served by personal delivery.

C. Notice requirements. An enforcement notice shall state at least the following:

- 1) The name of the owner of record and any other person against whom the municipality intends to take action;
- 2) The location of the property in violation;
- 3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance;
- 4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- 5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 20 days of receipt of the notice of violation; and
- 6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation.

D. Causes of action. The enforcement provisions of this section are not in lieu of, are not intended to limit in any way, the Township's causes of action under Section 617 of the MPC and authority to institute any appropriate action or proceeding at law or in equity to enforce, prevent, restrain, correct or abate zoning violations or to require the removal or termination of the unlawful use of the structure, building, sign, landscaping, land or other activity in violation of the provisions of this chapter. Further, the remedies within the MPC are in addition to, and not exclusive to, any other remedies available to the Township as a result of violation of the Zoning Ordinance.

**§ 081-060. Enforcement Remedies.**

- A. 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 Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.
- B. Magisterial District Judge. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

- C. Separate Violations. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one violation until the fifth day following the date of determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation.
- D. Fees. All judgments, costs and reasonable attorney's fees collected for the violation of this Zoning Ordinance, as amended from time to time, shall be paid over to the Township.
- E. Stay of proceedings. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

**§ 081-070. Appeals.**

The provisions for "Appeals to Court" as stated in the MPC, as amended from time to time, shall apply.

**DIVISION 82: ZONING PERMITS, CERTIFICATE OF COMPLIANCE  
AND CERTIFICATE OF NON-CONFORMITY**

**§ 082-010. Requirements for Issuance of a Zoning Permit.**

Zoning Permits shall be secured from the Zoning Officer prior to the erection of or addition to any building, structure or portion thereof, prior to the change in use of a building and/or change in the use of land, and prior to the change and/or extension of a non-conforming use.

- A. All applications for zoning permits shall be in writing, on forms to be furnished by the Township.
- B. Zoning permit applications and all supporting documentation shall be submitted to the Zoning Officer with the required fee.
- C. Such applications shall contain all information necessary for the Zoning Officer to ascertain whether the proposed erection, alterations, addition, use or change in use complies with the provisions of this Ordinance.
- D. The Zoning Officer may require that the applicant employ a registered professional surveyor to establish and certify measurements, when it is deemed necessary to insure compliance with all provisions of this ordinance.

- E. Issuance of Zoning Permits. Zoning permits not requiring action of the Zoning Hearing Board, the Board of Supervisors or the Planning Commission, shall be granted or denied after the official date of acceptance of a complete application by the Zoning Officer.
- F. After issuance of the zoning permit and until construction or alteration is completed, said permit placard shall be displayed prominently on or attached to the building or area for which issued, so that the said permit can be observed by third parties. A Zoning Permit shall expire if construction has not been commenced within six months after the date of issuance or has not been completed within three (3) years from the said date.
- G. An extension of time may be granted by the Zoning Officer upon application in writing by the applicant.
  - 1) The said extension shall not exceed six additional months for commencing construction and shall not exceed one additional year for completion.
  - 2) The Zoning Officer may require any additional information deemed necessary prior to granting an extension of time.

**§ 082-020. Requirement for Issuance of a Certificate of Compliance.**

- A. Upon completion of the erection and/or alteration of any building, use or portion thereof, authorized by a Zoning Permit, the holder of such permit shall notify the Zoning Officer of such completion and when required request a Certificate of Compliance in writing.
- B. The requirement to request a Certificate of Compliance upon completion shall be noted on the Zoning Permit by the Zoning Officer at the time of issuance of the said Zoning Permit.
- C. A Certificate of Compliance shall be either granted or denied after the official date of acceptance of a complete application by the Zoning Officer.
- D. The granting of a Certificate of Compliance shall be certification by the Zoning Officer that the work has been inspected and approved by the Township Building Code Official (who may have to issue a Certificate of Occupancy if construction is involved), as applicable, as well as the Zoning Officer, and that the work is in conformity with the provisions of the Zoning Permit, this Ordinance and all other applicable ordinances and regulations of the Township.

**§ 082-030. Issuance of a Certificate of Non-Conforming Use.**

The owner of the premises occupied by a lawful non-conforming use or structure may, upon providing sufficient documentation, request a Certificate of Non-Conforming Use from the Zoning Officer which certificate shall run with the land if issued.

**DIVISION 83:        ZONING HEARING BOARD**

**§ 083-010.    Membership.**

The Zoning Hearing Board shall be organized pursuant to the provisions of the MPC, as amended from time to time.

- A.    Creation of Board. The Township Board of Supervisors hereby creates a Zoning Hearing Board consisting of five members, appointed by the Board of Supervisors pursuant to the MPC, as amended from time to time, who shall perform all the duties and have all the powers prescribed by state statutes and as herein provided.
- B.    Membership of Board. The Zoning Hearing Board shall consist of five residents of the Township appointed by the Board of Supervisors. The existing terms of office shall continue, with terms of office being five years, and with the terms being so fixed that the term of office of one member shall expire each year. Members of the Board shall hold no other office in the Township, either elected or appointed.
- C.    Alternate members. The Board of Supervisors may appoint alternate members of the Zoning Hearing Board in accordance with the applicable provisions of the MPC, as amended from time to time. Alternate members shall hold no other office in the municipality, either elected or appointed.
- D.    Removal of members. Any member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing within 10 days after receipt of the notice of intent to take a vote.
- E.    Vacancies. Appointments to fill vacancies shall be only for the unexpired portion of a term and shall be made by the Board of Supervisors.

**§ 083-020.    Organization of Zoning Hearing Board.**

- A.    The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all of the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct a hearing on its behalf and the parties may waive further action by the Board as provided herein.
- B.    The Chairman of the Zoning Hearing Board may designate duly appointed alternate members to substitute, as voting alternate members, for any absent members or



members who have recused themselves or have been disqualified. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairperson of the Zoning Hearing Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

- C. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth.

**§ 083-030. Meetings.**

Meetings of the Zoning Hearing Board shall be held at the call of the Chairperson and at such other times as the Zoning Hearing Board may determine. The Chairperson or, in his/her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Hearing Board shall be open to the public.

**§ 083-040. Minutes and Records.**

The Zoning Hearing Board shall keep full public records of its proceedings showing the vote of each member upon each question or if absent or failing to vote indicating such fact. The Zoning Hearing Board shall also keep full public records of its business and other official action, which records shall be the property of the municipality. The Zoning Hearing Board shall submit a report of its activities to the Supervisors as requested by the Supervisors.

**§ 083-050. Jurisdiction.**

Pursuant to the MPC, as amended from time to time, the Zoning Hearing Board shall have exclusive jurisdiction to hear and render a decision in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to the MPC for curative amendments and validity challenges;
- B. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit or failure to act on the application therefore, the issuance of any cease and desist order, or the registration or refusal to register any nonconforming use, structure or lot;

- C. Appeals from the determination of the municipal engineer or Zoning Officer with reference to the administration of a flood plain or flood hazard ordinance or such provisions within a land use ordinance;
- D. Applications for variances from the terms of this Zoning Ordinance and any flood hazard ordinance or such provisions within a land use ordinance, pursuant to the MPC, as amended from time to time.
- E. Applications for special exceptions under this Chapter or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to the MPC, as amended from time to time.
- F. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of the zoning ordinance.
- G. Appeals from the Zoning Officer's determination under the MPC, as amended from time to time.
- H. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications of the MPC.

**Sec 083-060. Requests for variances.**

- A. The Board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The applicant shall first complete a written application and submit it to the Zoning Officer(s). The Zoning Hearing Board may grant a variance, provided that all of 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 condition generally created by the provision of the zoning ordinance 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 provision of the zoning ordinance 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, not 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. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and the zoning ordinance.
  - C. A variance, whether labeled dimensional or use, is appropriate, only where the property, not the person, is subject to hardship.
  - D. A property owner shall have 12 months from the date of issuance and approval of a variance to secure applicable zoning and building permits. If a property owner fails to secure applicable zoning and building permits within 12 months from the date of the variance approval, the variance shall expire. The Zoning Officer may conclusively presume that the applicant/property owner has waived, withdrawn or abandoned approvals and permits and may consider all such approvals and permits to have become null and void.
  - E. A property owner shall commence construction within 12 months of the issuance of the first zoning and/or building permit, as it pertains to the issuance of a variance. If a property owner has timely secured his/her zoning and building permits, however, does not commence construction on said permits within 12 months from the first date of issuance, then the variance and accompanying zoning and building permits shall expire. The Zoning Officer may conclusively presume that the applicant/property owner has waived, withdrawn or abandoned approvals and permits and may consider all such approvals and permits to have become null and void.
  - G. In response to a property owner applying for relief and stating good cause in writing, the Zoning Hearing Board may extend the time limit for completion of work to a maximum of 36 months from the date the first zoning or building permit was issued after the issuance of the variance.

**§ 083-070. Procedures for applications and appeals.**

- A. The Zoning Hearing Board shall act in strict conformance with the procedure specified by law and by this Ordinance. All appeals and applications made to the Zoning Hearing Board shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Ordinance involved

and shall set forth the interpretation that is claimed, the use for which a specified permit is sought or the details of the variance that is applied for and the grounds on which it claims that the variance should be granted, as the case may be.

- B. In the event the procedures set forth in this Ordinance shall be in conflict with or contrary to the procedures set forth in the MPC, as amended from time to time, then and in such event the procedures set forth in the MPC shall prevail.
- C. Applications and appeals to the Zoning Hearing Board together with the required filing fee, as established by the governing body from time to time by Resolution, shall be submitted to the Zoning Officer.
  - 1) Time Limitations. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 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.
  - 2) The failure of anyone other than the landowner to appeal from an adverse decision on a preliminary approval or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to the MPC, as amended from time to time, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved plan as noted in this subsection.

#### **§ 083-080. Zoning Board Hearings and Decisions.**

The board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Public notice shall be given and written notice shall be given to the applicant, the zoning officer, the board of supervisors, and the last known principal owner of record of each property that is immediately adjacent to or immediately across the street from the subject property, and to any person who has made timely request for the same, however, failure to provide such notice shall not be grounds for an appeal. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- B. The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and 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 before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 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 hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And 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; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision of 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 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 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, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- 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 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. See additional provisions in Article IX of the MPC.
- 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 not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined or purchased under the terms of the Freedom of Information Act, as amended.

**DIVISION 84:        Permit Application Procedures for Permitted Uses;  
Conditional Uses; and Special Exception Uses.**

**§ 084-010.        Permit Application Procedures for Permitted Uses.**

The Zoning Officer shall issue a 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.

- A. Submittal. All applications submitted to the Zoning Officer for a zoning permit involving a permitted use, as designated by this Chapter, shall be in compliance with this section.
- B. Every application for a zoning permit shall include a copy of the Applicant's Deed or lease and shall contain the following information and be accompanied by the required fee and by a site plan/plot plan drawn to scale and signed by the person responsible for such drawing.
  - 1) Site Plan. The applicant shall submit a minimum of two copies of a site plan with the application if the application involves a new principal building; expansion of a principal building; or the addition of an accessory structure or a use. The site plan shall be drawn to scale and show the following:
    - a. Locations, dimensions and uses of existing and proposed structures, parking and loading areas and location of existing and proposed uses of areas of land, with existing features clearly distinguished from proposed features.
    - b. Notes showing the dimensions of all buildings from lot lines and street right-of-ways.
    - c. Locations of any watercourses, wetlands, and any one-hundred-year floodplain.
    - d. Proposed lot area, lot widths and other applicable dimensional requirements, including lot number and section.
    - e. The exact size and locations on the lot of the proposed structure or structures or alterations of an existing structure and of other existing structures on the same lot.
    - f. The existing and intended use of all structures, existing or proposed, the use of land, the number of dwelling units the structure is designed to accommodate.
    - g. Locations and widths of existing and proposed sidewalks, if applicable.
    - h. Well and primary and alternate septic system locations, if applicable.
  - 2) Additional information. Any application under this Chapter shall include the following information unless the Zoning Officer determines such information is unnecessary to determine compliance with this Chapter, as amended from time to time:
    - a. The address of the lot.

- b. Name and address of the applicant and of the owner of the property if different from the applicant. If the applicant is incorporated, the legal names and day telephone numbers of the officers of the organization/corporation.
  - c. A description of the proposed use of the property.
  - d. All other applicable information listed on the official Township application from.
  - e. Such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this Chapter.
- C. Upon the issuance of a zoning permit, the Zoning Officer shall return one (1) copy of an endorsed permit and 1 copy of an endorsed site plan to the applicant along with a signed job placard which shall be conspicuously displayed on the job site during all phases of construction. In the event the application is denied, reasons for such denial shall be transmitted to the applicant in writing. One copy of the endorsed permit shall be forwarded to the Monroe County Tax Assessment office.
- D. Any zoning permit shall expire if construction has not commenced within 6 months after the date of issuance, or has not been completed within 3 years from said date, unless an extension has been authorized by the Township.
- E. If approval of soil erosion plans from the County Soil Conservation District is required, the applicant shall submit proof to the Township that the submittal was made and the zoning permit may be issued upon the County Soil Conservation District's approval.
- F. If a zoning permit is for activity that will need approval under the SALDO, the permit shall be automatically conditioned upon obtaining the SALDO approval.

**§ 084-020.     Application for Use Permitted as a Conditional Use.**

All applications for a public hearing involving a conditional use as designated by this Chapter shall be submitted to the Zoning Officer and shall be processed in accordance with the following:

- A. Jurisdiction. The governing body shall hear all applications for conditional use and render their decision in accordance with the requirements of § 913.2 of the MPC, as amended from time to time.
- B. Submission Requirements. Submission of an application for a public hearing on a conditional use shall be comprised of the following:



- 1) One (1) originally signed complete and properly prepared application for a public hearing on forms furnished by the Township as well as thirteen (13) additional copies of the application for distribution as noted below.
  - 2) Fourteen (14) copies of a site plan or a land development plan, as may be required under this chapter.
  - 3) Fourteen (14) copies of a statement of purpose, intent and extent of the proposed conditional use.
    - a. This statement shall outline, in detail, an explanation of the conditional use being requested;
    - b. Any future changes proposed to the site and/or use as a result of the proposed conditional use; and
    - c. Proof of ownership or lease rights (such as Deed(s), Agreement(s) of Sale or lease). In the case of a lease, the applicant shall submit proof of authority to exercise the rights of the landowner in seeking the application.
  - 4) Fourteen (14) copies of any other requests for variance(s) and/or modifications of regulations that may be necessary, including the reasons therefore.
  - 5) Fourteen (14) copies of any other information or data the applicant and/or Township deem necessary or desirable to be submitted.
  - 6) If a conditional use consists of or includes any real property lying within a distance of five hundred (500') feet from the boundary of any adjoining Township, two (2) additional copies of all documents and information shall be submitted for forwarding to that township for an advisory review.
- C. The submission date of a conditional use application and transmittal of submitted material by the Zoning Officer shall be as follows:
- 1) The submission date of the conditional use application shall be when the Zoning Officer has determined that the application is complete and all required documents and information as noted above and elsewhere in this Chapter have been submitted and the required fee has been paid.
  - 2) The Zoning Officer, through the Board of Supervisors, shall determine the date of the public hearing which must be within sixty (60) days of the submission date, as determined above.

- 3) After the hearing date has been set, the Zoning Officer shall advertise as follows:
  - a. “Public Notice” shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days prior to the date of the hearing.
  - b. The Zoning Officer shall conspicuously post a copy of the “public notice” on the affected tract of land at least seven (7) days prior to the date of the hearing.
  - c. Such notice shall state the time and place of the hearing and the particular nature and location of the matter to be considered at the hearing.
  - d. A copy of the application form with the above dates along with a copy of the “public notice” and a cover letter requiring attendance at the public hearing and Planning Commission review date shall be forwarded to the applicant by certified mail with a return receipt requested within thirty (30) days of the submission date.
- 4) A minimum of ten (10) days prior to the next regularly scheduled Planning Commission meeting, the Zoning Officer shall transmit copies of the application form and all supporting data and information to the following:
  - a. The original application form and one (1) copy of the supporting data and information shall remain with the Zoning Officer for the Zoning Officer’s file.
  - b. One (1) copy of the application form, supporting data and information shall be provided to each of the three (3) Supervisors.
  - c. One (1) copy of the application form, supporting data and information shall be provided to the Solicitor to the Board of Supervisors and the Planning Commission along with a notice that a review and report shall be submitted to the Planning Commission.
  - d. One (1) copy of the application form, supporting data and information shall be provided to the Township Secretary for use as the “public inspection copy”.

- e. One (1) copy of the application form, supporting data and information shall be provided to the Township Engineer along with a notice that a review and report shall be submitted to the Planning Commission.
  - f. One (1) copy of the application form, supporting data and information shall be provided to each of the Planning Commission Members along with a request for comments and recommendations.
- D. Planning Commission Review. In reviewing an application for a conditional use, the Planning Commission should take into consideration the specific requirements of the proposed conditional use as outlined in this chapter, as well as, but not limited to, the design, location and adequacy of traffic issues, parking, landscaping, screening, illumination, and necessary public services and facilities and similar factors relating to the health, safety, welfare, comfort, and convenience of the public in general and of the residents of the immediate neighborhood in particular. The site plan and/or land development plan that may be required with an application must be of sufficient detail and accuracy for the Commission to adequately review the application for the factors noted in this paragraph.
- E. Planning Commission Action. Within ten (10) days of the regularly scheduled Planning Commission meeting referenced above, at which time the application for the conditional use should have been taken into consideration, the Commission should act to recommend to the Supervisors, in writing, that the conditional use be approved, approved with modifications or disapproved. Failure of the Planning Commission to act within the time frames set forth above shall not by itself delay action by the Supervisors.
- F. Board of Supervisors Action: The governing body shall, after appropriate “public notice”, conduct public hearings and make decisions and findings in accordance with the following:
  - 1) All hearings shall be held as advertised. Testimony shall be taken under oath.
  - 2) The first hearing before the board shall be commenced within 60 days from the date of receipt of the applicant’s application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board shall assure that the applicant receives at least seven hours of hearings within 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant’s case-

in-chief. 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.

- 3) The Board shall not communicate directly or indirectly with any party or his representative(s) in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of the hearings with any party or his representative unless all parties are given the opportunity to be present.
  - 4) 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.
  - 5) 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.
  - 6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
  - 7) The Board shall keep a stenographic record of the proceedings. A transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party according to the fee schedule.
- G. Burden of Proof. The applicant has the burden of proof and shall provide the board with sufficient plans, studies and/or other data necessary to demonstrate to the satisfaction of the governing body that the application complies as follows, to wit:
- 1) Compliance with this Chapter. The applicant shall establish by credible evidence that the application complies with all applicable requirements and objective criteria set forth in this zoning ordinance such as:
    - a. The kind of use (such as the threshold definition of what is authorized as a conditional use);

- b. Specific requirements or standards applicable to a particular conditional use (such as special setbacks); and shall be suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing and intended character of the general vicinity.
- H. Decision. The Board 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.
  - 1) In granting a conditional use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed standards and criteria that was set forth in this ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance, other than those related to offsite transportation or road improvements. An applicant for conditional use approval is bound by any imposed conditions that he/she does not object to or appeal from.
  - 2) Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of the MPC or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
  - 3) Time Limits. See the provisions in Article IX of the MPC.
  - 4) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
  - 5) 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.
- I. Subdivision and Land Development Approval. An applicant that successfully obtains conditional use approval must still obtain subdivision and/or land development approval, if applicable.
- J. Zoning Officer's Action. All zoning permits for a conditional use as granted by the Board of Supervisors shall be issued, rejected or denied by the Zoning Officer in accordance with the following procedures:
  - 1) If the Zoning Officer finds the permit application complete and correct in all aspects of the granted conditional use, he shall approve and endorse the

said application and when a site plan has been submitted, endorse both copies of the said site plan.

- 2) One copy of the endorsed application, the endorsed site plan when applicable, and a completed and signed job placard shall be returned to the applicant. The signed job placard must be conspicuously displayed on the job site during all phases of construction of the permitted conditional use.
- 3) One (1) copy of the endorsed permit shall be forwarded to the Monroe County Tax Assessment Office.
- 4) If the zoning permit application is incomplete, and/or incorrect, the application shall be rejected with the reasons for the rejection stated thereon or attached thereto.

**§ 084-030. Permit Application Procedure for Special Exception Uses.**

Where the Governing Body has stated that Special Exceptions are to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria. In granting a Special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of the MPC and this Chapter.

- A. Jurisdiction. The Zoning Hearing Board shall hear all applications for special exception and render its decision in accordance with the requirements of the MPC.
- B. Submission Requirements. Submission of an application for a public hearing on a special exception use shall be comprised of the following:
  - 1) One (1) application for a public hearing complete and properly prepared. Forms are furnished by the Township.
  - 2) Ten (10) copies of a tentative site plan of the proposed special exception use. If a fully engineered subdivision and land development plan will be required, it may be submitted separately, such as after a special exception is approved.
  - 3) Ten (10) copies of a statement of purpose and extent of the special exception. This statement shall outline in detail the special exception use, any future changes and present and future ownership.
  - 4) Ten (10) copies of other requests for variance or waivers that may be necessary, including the reasons therefore.

- 5) Ten (10) copies of any other information or data the applicant and/or Township may deem necessary or desirable to be submitted.
  - 6) If a special exception use consists of or includes any real property lying within a distance of five hundred (500) feet from the boundary of any adjoining Township, two (2) additional copies of all documents and information shall be submitted.
- C. The submission date of the special exception use application and the transmittal of the submitted material by the Zoning Officer shall be as follows:
- 1) The submission date of a special exception use application shall be when the Township Zoning Officer has determined that the application is complete and all required documents and information has been submitted and the required fee has been paid.
  - 2) A public hearing shall be held within 60 days from the date of the submission of the application, unless the applicant has agreed in writing to an extension of time.
  - 3) The Zoning Officer shall determine the date of the public hearing after consulting with the solicitor to the Zoning Hearing Board.
    - a. “Public Notice” shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.
    - b. The Zoning Officer shall conspicuously post a copy of the “public notice” on the affected tract of land at least 7 days prior to the date of the hearing.
    - c. Such notice shall state the time and place of the hearing and particular nature and location of the matter to be considered at the hearing.
    - d. A copy of the application form with the above dates along with a copy of the “public notice” and a cover letter requiring attendance at the public hearing and the Planning Commission meeting date, for review and recommendation, shall be forwarded to the applicant by certified mail with a return receipt requested within 30 days of the submission date.

- e. The Zoning Officer shall submit the application to the Planning Commission for their review and recommendations. However, the Zoning Hearing Board shall meet the time limits of the state law for a decision, regardless of whether the Township Planning Commission has provided comments.
- 4) Within 15 days of the submission date the Zoning Officer shall transmit one (1) copy of the application form and one (1) copy of all supporting data and information to the following:
  - a. The original application form and one (1) copy of the supporting data and information shall remain with the Zoning Officer for the Zoning Officer's file.
  - b. One (1) copy of the application form, supporting data and information shall be provided to each member of the Zoning Hearing Board.
  - c. One (1) copy of the application form, supporting data and information shall be provided to the Solicitor to the Zoning Hearing Board and the Planning Commission along with a notice that a review and report shall be submitted to the Planning Commission.
  - d. One (1) copy of the application form, supporting data and information shall be provided to the Township Secretary for use as the "public inspection copy".
  - e. One (1) copy of the application form, supporting data and information shall be provided to the Township Engineer along with a notice that a review and report shall be submitted to the Planning Commission.
  - f. One (1) copy of the application form, supporting data and information shall be provided to each of the Planning Commission Members along with a request for comments and recommendations.
- D. Planning Commission Review. In reviewing the application for a special exception hearing, the commission shall take into consideration the design, location, and adequacy of traffic access, parking, landscaping, screening, illumination, and necessary public services and facilities and any other similar factors relating to the health, safety, welfare, comfort, and convenience of the public in general and of the residents of the immediate neighborhood in particular.
- E. Planning Commission Recommendation. Within 30 days of the filing of the application with the Zoning Officer, the Commission shall act to recommend to the Zoning Hearing Board, in writing, that the tentative site plan be approved, approved



with modifications or disapproved. Failure on the part of the Commission to act within 30 days shall not by itself delay action by the Zoning Hearing Board.

F. Hearings/Decision: The procedures for a public hearing shall follow the requirements listed under § 083-080 of this Chapter.

1) Burden of Proof. At the hearing on an application for special exception, the applicant has the burden of proof and shall provide the board with sufficient plans, studies and/or other data necessary to demonstrate to the satisfaction of the Zoning Hearing Board that the application complies with the following:

a. Compliance with this Chapter. The applicant shall establish by credible evidence that the application complies with all applicable requirements and objective criteria set forth in this zoning ordinance such as:

[1] The kind of use (i.e., the threshold definition of what is authorized as a special exception);

[2] Specific requirements or standards applicable to a particular special exception (e.g., special setbacks); and shall be suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing and intended character of the general vicinity.

b. Compliance with other Laws. The applicant shall establish by credible evidence that if approval is conditioned upon compliance with other specific applicable Township, state and federal laws, regulations and permits, the applicant shall provide the required permits or other proof of compliance to the Township prior to the issuance of any zoning permit, building permit, certificate of compliance and/or recording of an approved land development plan.

2) Decision. The Zoning Hearing Board shall render a written decision and make written findings on the special exception use application within 45 days after the last hearing before the board.

a. In granting a special exception use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

b. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon,

together with any reasons therefor. Conclusions based on any provisions of the MPC or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

- G. A subdivision and/or land development plan shall thereafter be submitted for review and approval, if applicable.
- H. Zoning Officer's Action; All zoning permits for a special exception as granted by the Zoning Hearing Board shall be issued, rejected or denied by the Zoning Officer in accordance with the following procedures:
  - 1) If the Zoning Officer finds the permit application complete and correct in all aspects of the granted special exception, he shall approve and endorse the said application and when a site plan has been submitted, endorse both copies of the said site plan.
  - 2) One copy of the endorsed application, the endorsed site plan when applicable, and a completed and signed job placard shall be returned to the applicant. The signed job placard must be conspicuously displayed on the job site during all phases of construction of the permitted conditional use.
  - 3) One (1) copy of the endorsed permit shall be forwarded to the Monroe County Tax Assessment Office.
  - 4) If the zoning permit application is incomplete, and/or incorrect, the application shall be rejected with the reasons for the rejection stated thereon or attached thereto.

**DIVISION 85: CURATIVE AMENDMENTS AND OTHER VALIDITY CHALLENGES**

**§ 085-010. Curative Amendments.**

- A. Jurisdiction. The MPC, as amended from time to time, permits a validity challenge in the nature of a curative amendment to be heard and decided by the governing body of the municipality.
- B. Applicant. The applicant for a curative amendment must be the landowner as defined in the MPC, as amended from time to time.
- C. Procedure. A curative amendment must be accompanied by a written request that the challenge and proposed amendment be heard and decided as provided in the MPC (validity challenges), as amended from time to time. The request must state:
  - 1) The challenge to substantive validity of the zoning ordinance; and

- 2) The suggested zoning ordinance amendment by which the alleged deficiency can be “cured.”
- D. Factors to be Considered. In considering the curative amendment and accompanying plan, the governing body must also consider:
- 1) The impact of the proposal upon roads and other infrastructure;
  - 2) The impact of regional housing needs and whether the proposal is actually available and affordable by classes otherwise excluded by the challenged ordinance;
  - 3) The physical suitability of the site;
  - 4) The impact of the proposed use on the physical site; and
  - 5) The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health and welfare.
- E. Acceptance or Denial. The governing body may deny the request, or accept the curative amendment with or without revision, or adopt an alternative amendment to “cure” the invalidity.

**§ 085-020. Substantive Validity Challenges.**

The MPC, as amended from time to time, provides for the Zoning Hearing Board to hear substantive validity challenges.

- A. Procedure. The written substantive validity challenge shall include (1) a written challenge, with explanation, and (2) a site development plan.
- B. Acceptance or Denial. The Zoning Hearing Board shall approve or deny the substantive validity challenge. See the provisions of the MPC concerning relief. If a substantive validity challenge (after any appeals) is finally decided in favor of the applicant, it shall not relieve the applicant from complying with any Township requirements that were not part of the successful challenge.

## **ARTICLE IX: SIGNS**

### **DIVISION 90: SIGN PROVISIONS**

#### **§ 090-010. Sign purposes and applicability.**

A. Purposes. This Article is intended to create and maintain an attractive community, while avoiding nuisances. Signs affect the use of adjacent streets, sidewalks, and property. This Article establishes reasonable and impartial regulations for all signs, in order to:

- 1) Protect the general public health, safety and convenience;
- 2) Reduce traffic hazards caused by distracting and confusing signs;
- 3) Ensure the effectiveness of public traffic signs and signals;
- 4) Protect property values;
- 5) Preserve the scenic beauty, unique character and residential neighborhoods of the Township;
- 6) Further economic development;
- 7) Enable the fair and consistent enforcement of sign regulations; and
- 8) Require the repair and/or removal of substandard signs and outdated sign messages.

B. Applicability. A sign shall only be placed, established, painted, created, or maintained in Middle Smithfield Township in conformance with the standards, procedures and other requirements of this article. This article serves:

- 1) To establish a permitting system to allow a variety of sign types in the various zoning districts, subject to the standards of this article;
- 2) To allow various types of less obtrusive signs that are limited in dimensions and type so as to be incidental to the principal land use of the property on which the signs are located, but without a requirement for permits;
- 3) To ensure that all signs comply with the provisions of this article; and
- 4) To establish a process for the Zoning Officer to assess the status of nonconforming signs.

#### **§ 090-020. Sign definitions and interpretation.**

- A. Words and phrases used in this article shall have the meanings set forth in this section.
- B. Words and phrases not defined in this section but that are defined in other provisions of this article shall be given the meaning as set forth in those other provisions.
- C. All other words and phrases shall have their plain and ordinary meaning within the context of the provision.

- D. Diagrams and photos are for illustrative purposes only or to provide examples, and in case of direct conflict between a diagram or a photo and ordinance text, the text shall govern.

#### ADVERTISING SIGN

A sign used to advertise or announce a business. Advertising signs shall include awning, canopy, ground, location, marquee, neon, projecting, blade, vehicular directory, shopping cart corral, pedestrian information sign plaza, wall, and window and door signs.

#### AIRDANCER

Inflatable moving advertising product comprised of a long fabric tube which is attached to and powered by an electrical fan causing the tube to move about in a dynamic dancing or flailing motion.

#### ANIMATED SIGN

Any sign that uses movement or change of lighting to depict action or create a special effect or scene; or any sign that utilizes mechanical movement.

#### AUTO DEALER VEHICLE SIGN

A sign used as part of motor vehicle sales use to provide information on a particular vehicle.

#### AWNING

Any nonrigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to the exterior of a building.

#### AWNING SIGN

Any sign that is part of or attached to an awning (See Figure 9-1).

FIGURE 9-1 - EXAMPLES OF AWNING SIGNS



#### BACKLIGHTING

The use of a light source behind an awning, canopy, or other semitransparent material to illuminate or intensify the effect of that material.

#### BANNER

A flexible plastic or fabric-type device intended to be hung with or without frames that displays a message. A banner is a type of special event sign. (See Figure 9-2).

FIGURE 9-2 - EXAMPLES OF A BANNER



#### BARE BULB ILLUMINATION

Illumination by bulbs without shading or shields.

#### BEACON

Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; any light with one or more beams that rotate or move.

#### BILLBOARD

See "off-premises sign."

#### BLADE SIGN

A sign suspended from a marquee, canopy, awning, or porch roof or ceiling. (See Figure 9-3). See also "projecting sign."

FIGURE 9-3 - EXAMPLES OF A BLADE SIGN



#### BUILDING MARKER

An individual sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material and attached to the building.

#### BUSINESS NAMEPLATE

An on-premises sign attached to the front facade of a nonresidential building giving the name(s) of the individual businesses/occupants of the nonresidential building.

#### CANOPY

An extension of the roof of a building or a freestanding structure that has a roof with ground support, but no walls.

#### CANOPY SIGN

Any sign that is part of or attached to a canopy (See Figure 9-4).

FIGURE 9-4 - EXAMPLE OF A CANOPY SIGN



#### CHANGEABLE SIGN

A sign that is designed to have its sign message content changed by manual means (such as by physically changing letters) or that is an electronically changeable message sign.

#### CHARITABLE SPECIAL EVENT STREET BANNER

A sign advertising an occasional special event that benefits a charitable or public service purpose (such as to benefit volunteer fire service or a school parent-teacher organization) and that extends into or over a public street right-of-way. Approval shall be provided by the Board of Supervisors or its designee, as provided in § 090-130A(4) of this article.

#### COMMERCIAL AREA

The C1 and C2 Zoning Districts, and land area that has been approved to be part of a resort complex/commercial resort.

#### CONSTRUCTION SIGN

A temporary individual sign identifying an architect, contractor, subcontractor, engineer, financial institution, or material supplier involved in the construction, reconstruction, or repair of a building or buildings on a lot.

#### DAMAGED SIGN

Any sign or sign structure that has been substantially damaged and which has not been repaired within 45 days after written notice from the Zoning Officer that the sign constitutes a damaged sign.

#### DECORATIVE FLAGS

Flexible fabric flags that do not display an advertising message or logo.

#### ELECTRONICALLY CHANGEABLE MESSAGE SIGN

A sign that uses electronically changing images, including, but not limited to, light emitting diode signs, fiber optics, light bulbs or other illumination devices within the sign display area to communicate information.

#### FACADE

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

#### FARM PRODUCT SIGN

A temporary individual sign used to advertise the sale of agriculture products when used in a zoning district where agricultural use is permitted.

#### FEATHER FLAG/BANNER

A flexible fabric item affixed on one side to a flexible flagpole designed to be freestanding with or without words or advertising.

#### FLAG

A flexible fabric item that is designed to be able to fly with the wind on a flagpole, but which may also be hung.

#### FLAME ILLUMINATION

Illumination using open flame as the source of the illumination.

#### FLASHING SIGN

Any sign which has intermittent or changing lighting or illumination.

#### FLOODLIGHT ILLUMINATION

Illumination using floodlights to direct light to a desired location.

#### FLUORESCENT SIGN

Any sign containing fluorescent colors in the text, graphic, or background.

#### FOR SALE SIGN

A personal use and identification sign used to announce the sale of a used product personally owned by the seller.

#### FREESTANDING SIGN

A sign that is mounted on pole(s), post(s), column(s) or similar feature and that is not attached to a building.

#### GARAGE SALE SIGN

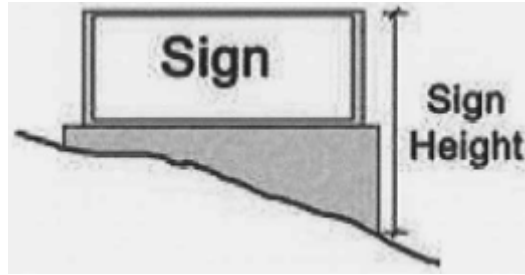
A type of personal use and information sign advertising a garage or yard sale that complies with Township ordinances.

#### GRADE LEVEL

The ground elevation at the base of a sign. The ground level shall not be artificially increased at the sign base, such as through use of berming or retaining walls, to increase the total allowed height of a sign. If a sign is located on a sloped site, the grade level shall be based upon the side of a sign that is closest to the nearest street. (See Figure 9-5).

FIGURE 9-5 - GRADE LEVEL ON A SLOPED SITE





## GRAPHIC

A lettered, numbered, symbolic, pictorial, or illuminated visual display that is visible from a public right-of-way.

## GROUND SIGN

A freestanding sign that has a maximum total height of eight feet. (See Figure 9-6).

FIGURE 9-6 - EXAMPLES OF GROUND SIGNS



## HISTORICAL MARKER

An individual sign erected by a public agency and intended to mark or honor an historical site, structure, or event located on or near the location of the sign.

## HOLIDAY DECORATIONS

Any combination of lights, posters, or other material temporarily displayed on traditionally or legally accepted civic, patriotic, or religious holidays related to observance of that civic, patriotic, or religious holiday.

## ILLEGAL SIGN

A sign which does not meet the requirements of this article and is not lawfully nonconforming. An illegal sign specifically includes:

- (1) A sign that remains standing when the time limits set by the permit are exceeded; and/or
- (2) Any sign not removed after notification from the Zoning Officer that a sign needs to be removed.

## INCIDENTAL SIGN

An on-premises sign for the convenience of the public giving directions, instructions, facility information, or other assistance around the site, such as location of exits, entrances, one-way signs, parking lots, driveways, delivery or

service area entrances, specific locations within a specific nonresidential development or lot or a multifamily housing development in order to direct and/or orient pedestrians and/or vehicles to assist in proper circulation.

#### INDIRECT ILLUMINATION

A light source not seen directly.

#### INDIVIDUAL SIGN

A sign allowed for a specific purpose and subject to standards allowing the purpose and intent of the sign to be fulfilled without adversely impacting the public health, safety, or welfare. Individual signs include, but are not necessarily limited to, auto dealer vehicle signs, construction signs, farm product signs, flags, incidental signs, murals, charitable special event street banner, personal use and information signs, political signs, business nameplate signs, real estate signs, special event signs, subdivision identification signs, and vending machine signs.

#### INDUSTRIAL AREA

The I Zoning District.

#### INFLATABLE SIGN

An inflated balloon or other device 18 inches or greater in diameter or length used to attract attention to a business or activity.

#### INTERIOR SIGN

A sign which is fully located within the interior of any building or stadium or within an enclosed lobby or court of any building and which provides information relevant only to the interior of the building and/or provides information which can only be read from inside the building.

#### INTERNAL ILLUMINATION

A light source concealed or contained within the sign and which becomes visible in darkness through a translucent surface.

#### MARQUEE

A roofed structure attached to and extending from the front facade of a building and which projects at least three feet from the building, and which is erected over a customer doorway(s) to provide protection from the weather, such as at a theater.

#### MARQUEE SIGN

Any sign that is part of or attached to a marquee (See Figure 9-7).

FIGURE 9-7 - MARQUEE SIGN



#### MASTER SIGN PLAN

A site plan and accompanying documentation that identifies all existing and proposed signage for a nonresidential development.

#### MECHANICAL MOVEMENT

Refers to animation, revolution, vertical and/or horizontal movement.

#### MEMORIAL SIGN

Memorial plaques or tablets, grave markers, statuary, or other remembrances of persons or events that are noncommercial in nature.

#### MULTIFAMILY COMPLEX SIGN

See "subdivision identification sign."

#### MURAL

A picture painted directly on a wall.

#### NEON ILLUMINATION

Illumination caused by neon and similar electrically charged gases within a glass or plastic tube, specifically including cold cathode and other similar light sources but not fluorescent light sources.

#### NEON SIGN

Any sign using neon illumination to form letters, symbols, or other shapes.

#### NONCONFORMING SIGN

A sign, sign structure, or any part thereof that does not comply with the provisions of this article, but which lawfully existed prior to the effective date of this article. In order to be lawfully nonconforming, a sign that required a Township permit at the time the sign was placed shall have received a Township permit.

#### OBSTRUCTIVE SIGN

Any sign erected or maintained at the intersection of roads in such a manner as to obstruct free and clear vision of the intersection; any sign located in a sight triangle (see definition in § 020-020).

#### OFF-PREMISES SIGN

A sign advertising a land use or promoting a commercial or noncommercial message unrelated to the activity conducted on the lot, development or site where

the sign is located; or a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than on the same lot or development where the sign is located.

#### ON-PREMISES SIGN

Signs accessory to commercial, industrial, or institutional activities, the purpose of which is to sell or index a product, service, or activity or to provide information regarding a commercial, industrial, or institutional facility. On-premises signs are located on the same lot, development or site as the advertised use. If a sign relates to an activity or use within a resort complex or commercial resort, a business subdivision or multifamily development, and that sign is placed within that same complex, resort, subdivision or development, such sign shall be considered an on-premises sign, even if the sign is on a different lot than the activity or use advertised by the sign.

#### PEDESTRIAN INFORMATION SIGN PLAZA

A freestanding on-premises sign, not attached to the exterior of a building, that lists the tenants or occupants of a group of nonresidential buildings and which directs pedestrians to the various locations, and which may include a map.

#### PENNANT

Any lightweight plastic, fabric, or otherwise flexible or reflective material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

#### PERSON

Any individual, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

#### PERSONAL USE AND INFORMATION SIGN

An individual sign installed on a private residential lot by the owner or tenant of that lot for the purposes of displaying the following types of information: street addresses, nameplates, private street signs, home occupation signs, property names, for sale signs, warning signs, garage sale signs, alarm company signs, "No Trespassing" signs, "No Soliciting" signs, "Beware of Dog" signs, "No Parking" signs, "No Dumping" signs, "No Hunting or Fishing" signs, and signs for closely similar purposes.

#### POLITICAL SIGN

Signs used to advertise an individual candidate or slate of candidates for any public office or a statement of an opinion on a political matter or referendum. Political signs are not personal use and information signs.

#### PORTABLE SIGN

Any sign, magnetic or otherwise, not permanently attached to the ground or other permanent structure; a sign designed to be transported, including but not limited to

signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs, and umbrellas used for advertising (See Figure 9-8).

FIGURE 9-8 - EXAMPLE OF PORTABLE SIGN



#### PREMISES

A lot or adjacent lots in common ownership, together with the buildings and structures thereon.

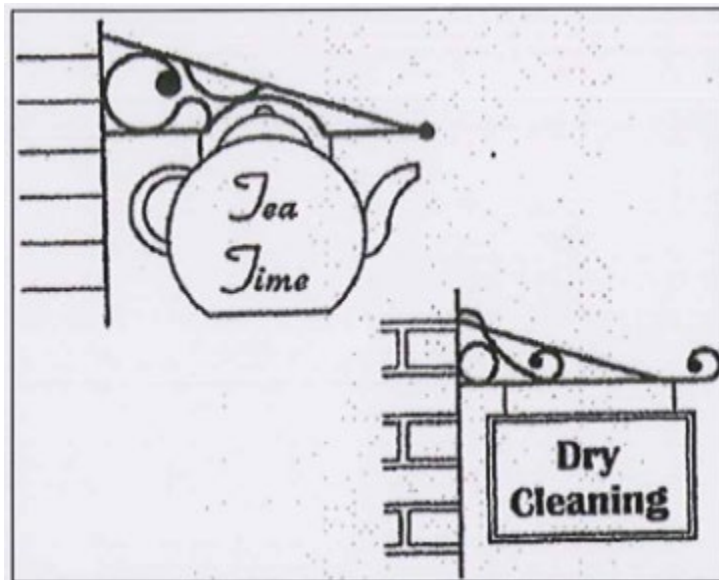
#### PRIVATE DRIVE SIGN

A personal use and identification sign located at the entrance of a private drive and denoting that access as private.

#### PROJECTING SIGN

A sign which extends perpendicularly to a facade (See Figure 9-9), and which is not a Blade sign.

FIGURE 9-9 - EXAMPLES OF PROJECTING SIGNS



#### PUBLIC NOTIFICATION SIGN

A temporary public use and information sign installed by a government employee that provides public notice of a government event.

## PUBLIC USE AND INFORMATION SIGN

Signs installed by a public entity (such as the Township, commonwealth, school district or federal government). Public use and information signs include, but are not limited to street signs, traffic control signs, public notification signs, and any other sign required by the Township to provide services to its residents. Public use and information signs also include, but are not limited to, off-premises signs specifically authorized by PennDOT regulations to direct persons to tourism attractions.

## REAL ESTATE SIGN

A temporary individual sign announcing the proposed sale or lease of part or all of a structure or land.

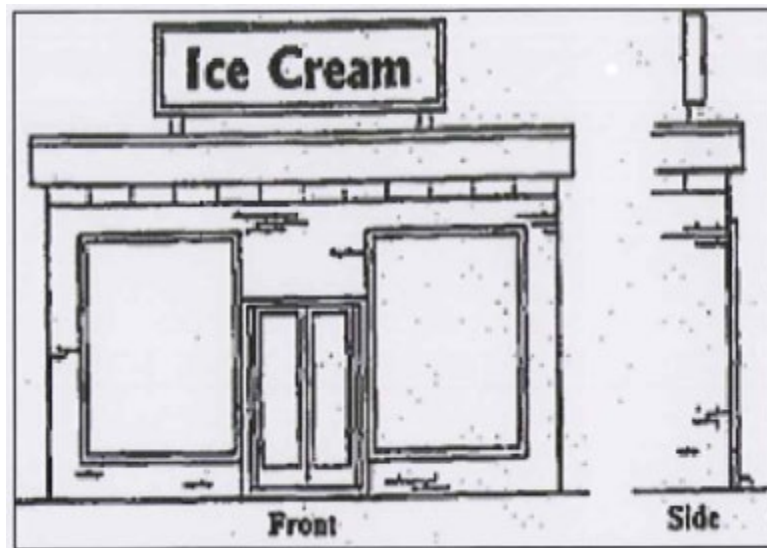
## RESIDENTIAL AREA

The PRD, R-1, R-2 and R-3 Zoning Districts.

## ROOF SIGN

A sign that is mounted on the roof of a building and which extends in height above the total structural height of the building roof. (See Figure 9-10).

FIGURE 9-10 - EXAMPLE OF ROOF SIGNS



## RURAL AREA

The CON and RR Zoning Districts.

## SHOPPING CART CORRAL SIGN

A sign fastened to a shopping cart corral structure designating the structure for the return of shopping carts.

## SIGN

Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

## SIGN ALTERATION

Any change to any feature of a sign, including, but not necessarily limited to, location, area, height, or physical design features, excluding, however:

- (1) Changes in copy and/or the advertising message;
- (2) Regular maintenance of the sign, including electrical, repainting, or cleaning of a sign; or
- (3) The repair of a sign.

## SNIPE SIGN

A sign that is attached to a tree, pole, stake, fence or similar object, and which is readable from a street, and which is not allowed in that location by this article as a different type of sign.

FIGURE 9-11 - EXAMPLE OF A SNIPE SIGN



## SPECIAL EVENT SIGN

Individual signs announcing special events, including but not limited to:

- (1) Auctions, grand openings, new management, going out of business and similar purposes;
- (2) Events sponsored by religious, charitable, or public service groups;
- (3) Festivals within a resort complex or commercial resort; or
- (4) Festivals sponsored by the Township.

## STREET ACCESS

Access to a publicly owned road by a permitted driveway.

## STREET SIGN

A public use and information sign identifying the name of a street or road.

#### SUBDIVISION IDENTIFICATION SIGN

A type of ground sign located at the entrance of a Township-approved subdivision or multifamily complex and identifying the name of the development. A subdivision identification sign is not a freestanding sign.

#### TRAFFIC CONTROL SIGN

A public use and information sign used to direct traffic, control direction or speed, or warn pedestrians and motorists of hazards or unusual road conditions.

#### VEHICULAR DIRECTORY SIGN

A sign containing one or two sides which displays smaller signs, often of equal size, to provide directions to motorists within a nonresidential lot, development or site. For the purposes of this article, drive-through menu signs are also classified as vehicular directory signs.

#### VEHICULAR SIGN

Any sign of more than 40 square feet of sign area that is displayed within clear view of a public street on a parked vehicle or trailer or that is transported by a vehicle, where the primary purpose of such vehicle, trailer or transported sign is to advertise a product, service or business or to direct people to a business or activity. If a vehicle or trailer is used on a daily basis to transport persons and materials off of the site, it shall not be considered to be a vehicular sign.

#### VENDING MACHINE SIGN

An individual sign that was incorporated into the design of a vending machine and cannot be removed from the machine. These signs advertise either the distributor that stocks the machine or the major supplier of the machine's contents.

#### WALL SIGN

A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign.

#### WARNING SIGN

See "personal use and information sign."

#### WINDOW SIGN

A sign painted or attached to a window or transparent door, and which can be read from outside the building and which provides advertisements or information to persons standing outside the building.

#### YARD SALE SIGN

See "garage sale sign."

#### § 090-030. Sign administration.

The administrator of this article shall be the Zoning Officer, which shall include any appointed Assistant Zoning Officers. The Zoning Officer shall have the responsibility and



authority to administer and enforce all provisions of this article, except those provisions with powers specifically reserved to the Board of Supervisors or the Zoning Hearing Board.

§ 090-040. Sign permit procedures and master sign plans.

No sign shall be erected, displayed, altered, relocated, or replaced, until the Township issues a zoning permit, except as provided in § 090-050 (signs not requiring permit), and § 090-150 (Nonconforming signs). A complete application for a sign permit or approval of a master sign plan shall only be denied if the applicant does not show compliance with the requirements in this article or other requirements of this article.

A. Master sign plan requirements. A master sign plan shall be submitted to the Zoning Officer for any land development, building or lot proposed to include three or more new principal nonresidential uses and that is submitted for zoning approval after the effective date of the ordinance enacting this article.<sup>[1]</sup> Where such a master sign plan is required, all subsequent signs requiring a zoning permit shall comply with the master sign plan, unless a revision to such plan is first approved by the Zoning Officer.

- 1) When submission and approval of a master sign plan is required, the master sign plan shall include the following information, which shall be submitted to the Zoning Officer prior to the issuance of a zoning permit for a sign(s) that needs a permit:
  - a. Two copies of a site plan clearly and legibly drawn at a scale of one inch being equal to 50 feet or less, showing the location of all existing, proposed and future signs of any type, except that incidental signs need not be shown, and with the sign's dimensioned setbacks from the nearest lot line.
  - b. Two copies of building elevations drawn to scale of each side of the building on which a sign is located or will be placed showing the sign dimensions and proportions, location of each existing and proposed sign on the building, material, color scheme, lettering or graphic style, and lighting, if any.
  - c. Two sets of drawings of the planned signs clearly indicating the dimensions of all signs, including height above finished grade, types of lettering, logos and other graphics, colors, materials, and method of illumination, if any. If the tenants are not known, typical sign designs shall be shown.
  - d. Two copies of the type and total number of signs proposed, plus any existing signs that will remain, and a computation of the maximum

total sign area and the maximum area for individual signs compared to the signage allowed.

- e. Two copies of the landscaping plan, if one is required for the type of sign proposed.
- f. The property owner or developer is encouraged to include guidelines to assure reasonable consistency among signs of various uses.
- g. Additional submittals or amendments to the master sign plan will be necessary as changes to a sign(s) in such land development, building or lot occur. Any amendments to a master sign plan must be signed and approved by the property owner(s) and Zoning Officer before such amendment will become effective.

2) Where a master sign plan is required, no zoning permit shall be issued for a sign requiring a zoning permit and no sign shall be erected until a master sign plan, or amendment thereto, has been approved by the Zoning Officer.

3) A required master sign plan should be submitted as part of a final land development plan, to show signs that are known at that time.

B. Permit application. Applications for zoning permits for signs shall be completed and submitted using forms provided by the Township. Applications shall include the following information in either written or graphic form:

- 1) Location of the sign in relation to lot lines, buildings, sidewalks, streets, public rights-of-way, street intersections and existing signs of more than five square feet. The following features shall be shown where they may be directly impacted by the proposed sign: wooded areas, trees greater than twenty-four-inch trunk diameter at 4.5 feet above ground level, wetlands, and watercourses. In addition, information on similar features on immediately adjacent properties may be required by the Zoning Officer if they may be directly impacted by the proposed sign, such as if wooded areas are proposed to be removed on an adjacent lot.
- 2) Type of sign (such as ground or wall) and general description of structural design and construction materials.
- 3) Drawing(s) of the proposed sign which shall contain specifications indicating height, perimeter, area, dimensions, type of lettering, text, color, means of support, method of illumination, and any other significant characteristics of the proposed sign.
- 4) Letter acknowledging and approving the construction and use of the sign by the property owner or his/her authorized representative, or written evidence that the applicant (such as a tenant) is authorized to submit a zoning application.
- 5) Specific additional information that the Zoning Officer determines is necessary to determine compliance with a requirement of this article.

- 6) The required sign permit fee as established under separate resolution by the Board of Supervisors. Permit fees are intended to cover the cost for administering this article.
  - 7) A landscaping plan, if required by this Zoning Ordinance.
- C. Permit review and action. The Zoning Officer shall review the permit application for the sign and issue or deny the permit in conformance with this article.
- 1) Official date. The official date of submission shall be the day the Zoning Officer determines the completed application with all required or necessary data has been properly prepared and submitted.
  - 2) Time to decide. The Zoning Officer shall determine whether the proposed sign will or will not be in compliance with the requirements of this article and shall, within 30 calendar days of the official date of a complete submission, issue or deny the permit for the sign, unless the application is dependent upon another Township approval that has not yet been obtained. The Zoning Officer should notify an applicant within five business days if an application is incomplete, and should highlight information that is missing.
  - 3) Photograph. When the sign installation has been completed, the applicant shall photograph the completed sign and forward the photograph to the Zoning Officer with a request for a certificate of compliance. The photograph shall be in a format specified by the Zoning Officer.
  - 4) Inspection for compliance. Upon completion of the work, the Zoning Officer shall perform a final inspection of any approved sign. Where the sign has been constructed in accordance with the permit, the Zoning Officer shall issue a certificate of compliance. The final dimensions of the sign will be noted by the Zoning Officer on the final zoning permit and a photograph of the sign shall be attached to the permit.
  - 5) Discrepancies. When there is a discrepancy between an approved sign permit and the sign as constructed, the Zoning Officer shall notify the owner in writing that a discrepancy has been identified. The Zoning Officer may also issue a stop-work order regarding the installation of an unauthorized sign. The Zoning Officer shall issue an enforcement notice and require that the sign shall be removed or brought into compliance within 20 days.
  - 6) Complaints. The Zoning Officer shall investigate complaints of alleged violations of these regulations and may revoke any permit if there is any violation of these regulations or if there was any misrepresentation of any material fact in either the sign permit application or the plans.
- D. Expiration of zoning permits for signs. If the sign authorized by any zoning permit has not been erected or completed within one year from the date of issuance of that permit,

the permit shall be deemed expired and a new application must be submitted, unless otherwise provided under state law.

- E. Revocation of a sign permit. All permits and privileges acquired under the provisions of this article are revocable by the Zoning Officer for failure to comply with the Zoning Ordinance, including this article.
- F. Maintenance of signs. Signs must be properly maintained, be properly painted, and be kept free from all hazards, including but not limited to faulty wiring, loose fastenings, being in an unsafe condition, or being detrimental to the public health or safety.
- G. Enforcement. When a violation of this article of the Zoning Ordinance has occurred, the Zoning Officer shall initiate enforcement action through issuance of an enforcement notice.
  - 1) Violations. The following signs shall be in violation of this article of the Zoning Ordinance and shall be subject to enforcement action as allowed by this article:
    - a. Any sign not properly permitted as required by this article.
    - b. Any sign which presents immediate peril to persons or property.
    - c. Any "damaged sign" as defined by this article, or any sign that could present an imminent threat to persons or property because of the sign's condition or placement.
    - d. Any sign, other than an official governmental sign or a public use and information sign, that is located in a public street right-of-way and that does not meet one of the following standards:
      - [1] It was specifically authorized by this article;
      - [2] It was posted in compliance with state regulations within a state right-of-way; or
      - [3] It is lawfully nonconforming.
    - e. Any other sign not in conformance with any section of this article and which is not lawfully nonconforming.
  - 2) Enforcement notice. The enforcement notice shall be sent to the property owner of record of the parcel on which the sign is located and should also be sent to any tenant who is using the sign, and to any agent who the landowner has designated in writing to the Township. An enforcement notice shall meet the requirements for such notice in the Municipalities Planning Code.
  - 3) Enforcement remedies. When an enforcement notice has been issued and an appeal to the Zoning Hearing Board has not been filed in a timely manner, or the Zoning Hearing Board has found in favor of the Township, the Township may file a civil complaint with the Magisterial District Judge seeking the imposition of a fine for the violation(s) and other costs. In addition, the Township may at any time institute legal proceedings in the courts to prevent or restrain any violation of this article. If an unauthorized sign is located within a public street right-of-way or represents an

imminent threat to persons, property or public safety, the Township may remove the sign, with the costs of removal being charged to the sign owner.

§ 090-050. Signs not requiring permit.

The following signs are allowed in all zoning districts and do not need a zoning permit, provided the signs meet the requirements of this article.

- A. Any sign required by law and which is required to be posted outdoors.
- B. Auto dealer vehicle signs as accessory to an on-site lawful vehicle sales use.
- C. Business nameplates not exceeding one square foot in area per nonresidential establishment. See § 090-130A.
- D. Building markers not exceeding four square feet and not exceeding four feet in height.
- E. Decals not exceeding an aggregate of two square feet per building entrance.
- F. Historical markers erected by an historical agency or association and approved by majority vote of the Board of Supervisors at a regular meeting or by a state agency.
- G. Interior signs.
- H. Flags of levels of government.
- I. Memorial signs located in an approved cemetery.
- J. Construction signs, real estate signs and political signs of 16 square feet or smaller in sign area.
- K. Vending machine signs.
- L. Incidental signs.
- M. Public notification signs for hearings to be held by a Middle Smithfield Township Board.
- N. Personal use and information signs.
- O. Public use and information signs.
- P. A sign that is physically carried by a person and does not rest upon the ground or a building. However, such person shall not enter into the travel lanes or shoulder of a public street or obstruct a vehicle driveway while actively displaying the sign.
- Q. Shopping cart corral signs within a C1, C2 or I district.
- R. Window signs that are not illuminated and that are 10 square feet or smaller in sign area.
- S. On-premises signs that are not readable from any highway, street or lot line, and which are not internally illuminated, and which have a total height of less than 10 feet shall not be regulated in number, type or sign area size by this article.
- T. Signs that existed within a resort complex or commercial resort development at the time of approval of such use, or that are within the scope of the master plan submitted and approved for such use under a prior Township Zoning Ordinance.
- U. Signs within an approved resort complex or commercial resort development that cannot be read from any public street and from any lot located outside of the resort complex

or commercial resort development. See also the definition of "on-premises signs" in regards to resorts.

§ 090-060. Prohibited signs.

Any sign that is not specifically allowed by this article is hereby prohibited. The following signs are also specifically prohibited:

- A. Freestanding signs greater than 20 feet in height.
- B. Changeable signs that are manually changed and that involve more than 60 square feet of sign area per side.
- C. Snipe signs.
- D. Vehicular signs, involving vehicles parked on private property within 50 feet from a public street right-of-way and that are within clear view of a public street.
- E. Off-premises signs that do not meet the requirements for such signs in this article.
- F. Feather flag/banner.
- G. Pennants.
- H. Airdancer.

§ 090-070. (Reserved)

§ 090-080. Allowed signs in each zoning district.

- A. Schedule I: Allowed signs in each zoning district. The following types of signs are allowed in the following zoning districts, provided there is compliance with the provisions of this article. All of the signs listed in this § 090-080 shall need a zoning permit, except as provided in § 090-050.

- 1) The following signs are allowed in all zoning districts:
  - a. Construction signs.
  - b. Flags of a level of government.
  - c. Farm product sign (limited to a principal agricultural use where accessory retail sales have been approved).
  - d. Political signs that are 16 square feet or smaller in sign area.
  - e. Subdivision identification signs.
  - f. Charitable special event street banners.
  - g. Incidental signs.
  - h. Personal use and information signs.
  - i. Real estate signs.
  - j. Vending machine signs.
  - k. Business nameplate signs which do not exceed the dimensions set forth in

§ 090-050C.

- l. A sign that is physically carried by a person and does not rest upon the ground or a building. However, such person shall not enter into the travel lanes or shoulder of a public street or obstruct a vehicle driveway while actively displaying the sign.
  - m. Window signs that are not illuminated and that are 10 square feet or smaller in sign area.
  - n. Principal institutional use directional sign.
  - o. Signs that are not readable from any highway, street or lot line, as provided in § 090-050S.
- 2) The following signs are only allowed in the C1, C2 or I districts, or in an approved resort complex or commercial resort, or for a lawful principal nonresidential use in another district:
  - a. Auto dealer vehicle signs.
  - b. Awning sign.
  - c. Blade signs.
  - d. Business nameplate signs which exceed the dimensions set forth in § 090-050C.
  - e. Canopy signs.
  - f. Ground signs.
  - g. Individual sign, unless otherwise provided herein.
  - h. Freestanding sign.
  - i. Marquee signs.
  - j. Murals.
  - k. On-premises sign.
  - l. Pedestrian information sign plazas.
  - m. Political signs, which may be more than 16 square feet in sign area.
  - n. Special event signs.
  - o. Vehicular directory signs.
  - p. Wall signs.
  - q. Window signs.
- 3) The following signs are only allowed in the C1, C2 or I districts for a principal nonresidential use:
  - a. Projecting sign.
  - b. Shopping cart corral signs.
  - c. Neon signs, and which shall only be allowed if they are window signs.
  - d. Electronically changeable message signs.
- 4) The following signs are only allowed in the C1 district and shall need conditional use approval:
  - a. Off-premises signs.

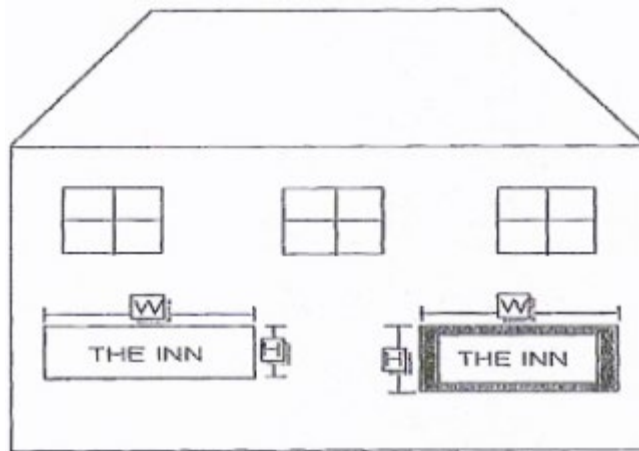
§ 090-090. General standards and criteria for signs.

The regulations of this section specify the area and heights of signs that are allowed within the Township and which require a permit.

A. Determination of sign area. The following criteria shall be used to determine the area of a sign:

- 1) The entire face of the sign (one side only) including all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, and any framing, bracing, or wall work incidental to its decoration shall be included (See Figure 9-12).

FIGURE 9-12 - DETERMINING SIGN AREA



- 2) Where a sign structure has more than one sign face, one sign face shall be used to calculate the sign area. Where sign faces on the same sign structure differ in size, the largest sign face shall be used to determine the sign area.
- 3) Where the sign face consists of individual raised and/or recessed letters, logos, symbols, and/or graphics, the sign area shall be the area of the smallest rectangle that can encompass those letters, logos, symbols, and/or graphics (Figure 9-13). Where the sign consists of a sign face of irregular shape, the sign area shall be the area of the smallest rectangle that can encompass the sign face, background, and frame. However, if a sign is a perfect circle, the sign shall be allowed to be measured based upon the square feet within the circle. An irregular sign may be measured based upon two rectangles. Such calculation shall also apply to a sign placed on a canopy or awning.

FIGURE 9-13 - DETERMINING SIGN AREA II





Sign Area = total width multiplied by total height within a rectangle.

In the above examples, the sign area would be A multiplied by B, and C multiplied by D.

- B. Determination of sign height. Sign height shall be based upon the vertical distance from the "grade level" (as defined by this article) and the total height of the sign. If a sign is directed towards an adjacent street and the nearest segment of that street has an elevation of pavement that is more than 10 feet higher than the grade level under the sign, then the sign height may be measured from that elevation of pavement.

§ 090-100. General sign requirements.

All signs shall meet the following additional requirements:

- A. Sign materials and construction. All signs shall be constructed and installed in compliance with the current construction code(s).
- B. Maintenance. Every sign, including signs that do not need a permit, shall be maintained in good repair and in a safe, clean, and attractive condition.
- C. Design. Except as otherwise allowed herein, no part of a sign or other commercial display shall contain or consist of pennants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices. No sign shall utilize mechanical movement or sequin or sparkle effects, unless otherwise allowed by this article.
  - 1) Fluorescent and/or neon signs. No sign shall be permitted that is comprised of exposed fluorescent tubing or neon or similar lighting, except that an allowed principal commercial use may have a single neon sign if it is located in a window in compliance with this article and where allowed under Schedule I. (See §090-080A)
  - 2) Sign emissions. No sign which emits smoke, visible vapors, particles, sound, or odor shall be permitted.
  - 3) Sign projections. Except as otherwise permitted by this article (such as for a projecting sign), signs shall have no projecting elements greater than 18 inches.
  - 4) Mirrors. No mirror-type device shall be used as a part of a sign.
  - 5) Holographic images. Signs shall contain no parts that are holographic or that are able to produce any holographic image.
  - 6) Clear sight triangle. No sign shall be located within a clear sight triangle or shall otherwise create a traffic visibility hazard.
- D. Setbacks and signs in the right-of-way and on public property.

- 1) Except as otherwise permitted by this article, all signs shall be set back at least 10 feet from a street right-of-way line, or from a street cartway where a right-of-way line does not exist. Only official governmental signs and signs authorized under PennDOT regulations to be located within a public right-of-way shall be allowed within a public right-of-way.
  - 2) Public property.
    - a. A person or nongovernmental entity shall not post any sign upon public property without written permission from the governmental entity that owns or controls that property, except for customary information utility companies place on utility poles. Political and commercial advertising signs shall not be allowed on public property except for:
      - [1] Political signs on election days where allowed outside of a polling place; and
      - [2] Signs authorized by a governmental entity to recognize a sponsor of a festival or recreation association, provided such signs are not designed to be readable from a public street or dwelling.
    - b. A sign posted on Township property or within a public street right-of-way without governmental permission may be removed and discarded.
  - 3) Freestanding signs of more than 10 square feet in sign area shall be set back a minimum of 10 feet from any adjacent lot line of a lot that is not in common ownership with the lot where the sign is located.
- E. Signs on private property. No person shall post a nongovernmental sign upon private property without permission from the property owner. A nongovernmental sign posted on private property without permission of the property owner may be removed and discarded by the property owner or his/her designee.
- F. Signs and traffic safety. All signs shall meet the following minimum traffic safety standards:
- 1) No sign shall be erected so as to obstruct any of the following:
    - a. The clear sight triangle at any street intersection;
    - b. Safe sight distances at vehicle driveways; or
    - c. Views of a traffic control sign or a traffic signal.
  - 2) No signs or outdoor graphics shall by color, location, or design resemble or conflict with traffic control signs or traffic signals.

§ 090-110. Off-premises signs.

- A. Regulations for off-premises signs (which includes signs commonly known as "billboards").

- 1) An off-premises sign may be a principal or accessory use of a lot.
- 2) An off-premises sign shall only be allowed in the C-1 District and shall need conditional use approval, and shall also meet the following additional requirements:
  - a. The lot shall contain no more than one off-premises sign (which may include two sides in compliance with Subsection A(7) below).
  - b. The lot must be a conforming lot.
- 3) The sign shall comply with the minimum setbacks for principal buildings for the district in which the sign is proposed.
- 4) All off-premises signs shall comply with the requirements set forth in § 090-100.
- 5) Off-premises signs adjacent to Route 209 shall not exceed the following size requirements:
  - a. Maximum area: 300 square feet.
  - b. Maximum height above ground: 25 feet, except 30 feet shall be allowed for a sign that is a full 300 square feet in size.
- 6) Off-premises signs adjacent to any street other than Route 209 shall not exceed the following size requirements:
  - a. Maximum area: 72 square feet.
  - b. Maximum height: 10 feet.
- 7) Off-premises signs shall contain a maximum of two faces, but shall only have one face if the interior angle inside the two sign faces is greater than 45°.
- 8) No off-premises sign structure of more than 72 square feet of sign area shall be located within a two-thousand-six-hundred-forty-foot (one-half-mile) radius of any other off-premises sign structure of more than 72 square feet of sign area.
- 9) No off-premises sign shall be located within a one-hundred-foot-wide radius of any on-premises sign or within 100 feet from a residential district.
- 10) No off-premises sign shall be located within a three-hundred-foot-wide radius of any existing residence.
- 11) Extensions or add-ons beyond the rectangular perimeter of the sign are prohibited.
- 12) No off-premises sign shall be located along a scenic byway, street or highway as designated by the Township, county, or PennDOT.
- 13) Illumination of off-premises signs is prohibited between 12:00 midnight and 6:00 a.m. New lighting shall be installed on top of the sign facing downwards.
- 14) A site plan showing the same information as is listed for a sketch plan in the Subdivision and Land Development Ordinance (See Ch. 170) shall accompany an application for an off-premises sign.
- 15) Wood support structures are prohibited for new off-premises signs of more than 72 square feet of sign area.
- 16) An engineering certification shall accompany any application for an off-premises sign. The certification shall indicate under seal of a professional engineer licensed

in Pennsylvania that the sign has been designed in accordance with acceptable engineering practices, including wind resistance.

17) Off-premises signs shall be landscaped in accordance with § 090-120C.

18) Trees greater than four inches in trunk diameter at 4.5 feet above ground level that are removed for construction of the sign shall be replaced on site at a ratio of one replacement tree for each removed tree, using native species no less than four inches in diameter.

19) Brightness. The illumination and/or intensity of the display shall be so controlled so as to not create glare, hazards or nuisances, and shall comply with § 090-140.

20) An off-premises sign shall not be an electronically changeable message sign.

21) These regulations shall not apply to signs allowed in Subsection B below or to nonilluminated tourist-oriented directional signs within a public right-of-way that are approved under PennDOT regulations, and which are allowed in all districts.

B. Principal institutional use directional signs.

1) These signs shall be permitted by right in all districts, for the purposes of telling motorists which way to travel to reach an institutional use.

2) A maximum of two signs of 16 square feet each shall be allowed to be used to direct persons to the location of a place of worship, primary or secondary school, or similar principal institutional use that is located within Middle Smithfield Township.

3) The owner of the lot shall provide written permission for the sign, which may be off-premises.

4) The sign shall not be illuminated and shall not be within a public street right-of-way.

C. See also the definition of "on-premises signs," which affects resorts and certain other developments.

§ 090-120. On-premises signs.

All on-premises signs shall meet all general sign requirements in § 090-100 and are subject to the following specific regulations, provided there is compliance with the other requirements of this article:

A. Blade signs. Where blade signs are permitted as provided in Schedule I of this article, any principal nonresidential use may display one blade sign in front of the main entrance building facade, provided that:

1) The minimum height of a blade sign shall be eight feet, and the maximum height of blade sign shall be 12 feet measured from the walking surface below the sign to the bottom of the sign.

2) The maximum sign area for each face of a blade sign shall not exceed six square feet.

- 3) Blade signs shall not be internally illuminated.
  - 4) Blade signs shall be mounted perpendicular to the building entrance.
- B. Sign bonus for signs that appear to have relief-cut wood. The maximum sign area for any sign may be increased by 20% for a sign that has an appearance of relief-cut wood, and which is not internally illuminated. (Note: The Construction Code may require the use of artificial materials for fire safety purposes.) This sign bonus and the sign bonus provided in Subsection C may be added together if the requirements for each are met.
- C. Sign bonus for freestanding signs of less than eight feet height. Where a freestanding sign is allowed to have a height of 15 feet or greater or an existing freestanding sign of more than 15 feet height is replaced, and the new freestanding sign will have a total height of less than eight feet, then the freestanding sign shall be allowed to have a sign area 20% greater than would otherwise be allowed.
- 1) In order to receive this sign area bonus, the sign shall be surrounded by a landscaped area covering a minimum ground area equal to 50% of the sign area of the sign.
  - 2) The minimum number of planting units for the landscaped area of this sign shall be equal to not less than one planting unit per four square feet of landscaped area. Planting units shall include a mixture of annuals, perennials, ornamental grasses, shrubs, evergreen and/or shade trees. No less than 50% of the total number of planting units shall be a mixture of perennials, shrubs, evergreen and/or shade trees. If annuals are used, they must be replanted each year.
  - 3) The perimeter of the landscaped island shall be formed from materials such as, but not limited to, stone, brick, or landscape timbers.
  - 4) The area of the landscaped island shall be mulched or otherwise maintained as necessary to keep it free of weeds, brush, trash and deteriorating material.
  - 5) The proposed landscape plan shall be approved by the Zoning Officer.
- D. Vehicular directory signs. Where vehicular directory signs are permitted under Schedule I of this article, a nonresidential lot or development may display one vehicular directory sign adjacent to intersecting interior driveways or an interior driveway nearest the principal building or buildings, and one sign for each use having a drive-through food service lane, provided that:
- 1) Such sign shall not exceed a height of eight feet.
  - 2) Each such sign shall not exceed an area of 35 square feet.
  - 3) All vehicular directory signs shall be surrounded by quality landscaping subject to compliance with the landscaping requirements of this article and §090-120C.
- E. Freestanding signs. Where a lot contains one or more principal nonresidential uses, the lot shall be permitted to have one main entrance freestanding sign and, if applicable, one secondary entrance freestanding sign, subject to the following regulations:
- 1) Main entrance freestanding sign. A main entrance freestanding sign shall be located within 100 feet of the main vehicle entrance to the nonresidential lot in

question and shall conform to the following regulations. For the purposes of this article, the main vehicle entrance shall be where the majority of vehicles enter and exit the lot or development in question:

- a. The maximum sign area of a main entrance freestanding sign shall be determined in accordance with the following table.

Main Entrance Freestanding Sign	
Gross Building Floor Area of Nonresidential Development on Lot (square feet)	Maximum Sign Area of Main Entrance Freestanding Sign Per Sign Face (square feet)
0 to 25,000	40 per face, except 60 for a lot with 3 or more principal nonresidential establishments
25,001 to 50,000	60 per face, except 80 for a lot with 4 or more principal nonresidential establishments
50,001 to 100,000	80 per face, except 100 for a lot with 5 or more principal nonresidential establishments
100,001 to 150,000	120 per face, except 160 for a lot with 8 or more principal nonresidential establishments
150,001 and above	160r face

- b. A main entrance freestanding sign shall be permitted to have up to two sign faces.
- c. Illumination of the sign shall comply with § 090-140 of this article.
- d. See § 090-100.
- e. The location of the main entrance freestanding sign shall be shown on the land development plan.
- f. The height of a main entrance freestanding sign face and structure shall not exceed 12 feet, except a twenty-foot maximum height shall apply for a sign of 80 square feet or larger. For purposes of this section the height of a main entrance freestanding sign face and structure shall be measured from the grade at the base of the main entrance freestanding sign.
- g. A main entrance freestanding sign structure may contain an interior storage compartment or area that shall only be utilized for the storage of spare parts, provided that:
  - [1] The size of the storage area or compartment shall not exceed 50% of the aggregate sign area;

- [2] The storage area or compartment is integrated in an architecturally harmonious and unified manner with the structure of the sign; and
- [3] The storage area or compartment is fully enclosed.

- h. The exterior finish(es) of a main entrance freestanding sign support structure shall be constructed of natural or synthetic brick or stone, stucco and/or exterior insulation and finish systems (EIFS) or materials with a closely similar appearance.

2) Secondary entrance freestanding sign. In addition to the main entrance freestanding sign, a nonresidential development, lot or site served by more than one permitted motor vehicle entrance from a public road shall be allowed one secondary entrance freestanding sign within 100 feet of each such entrance. The secondary entrance freestanding sign shall conform to the following standards:

- a. The maximum width of a secondary entrance freestanding sign shall not exceed eight feet. The maximum height of a secondary entrance freestanding sign shall not exceed five feet. For purposes of this section, the height of a secondary entrance freestanding sign shall be measured from the grade at the base of the secondary entrance freestanding sign.
- b. The maximum sign area of a secondary entrance freestanding sign shall not exceed 20 square feet per sign face.
- c. Only the name and logo, if applicable, of the nonresidential development, lot or site in question shall be depicted on a secondary entrance freestanding sign.
- d. The exterior finish(es) of a secondary entrance freestanding sign support structure shall be constructed of natural or synthetic brick or stone, stucco and/or exterior insulation and finish systems (EIFS) or materials with a closely similar appearance. The sign architecture shall be the same as the main entrance freestanding sign.
- e. A maximum of two faces per secondary entrance freestanding sign shall be permitted.
- f. Each secondary entrance freestanding sign may be illuminated internally or externally. If internally illuminated, only the individual letters, logos and symbols shall be illuminated. If externally illuminated, the sign illumination shall comply with § 090-140 of this article.
- g. See § 090-100.
- h. A secondary entrance freestanding sign shall be set forth on the land development plan.

3) Resort complex freestanding signs: See Subsection M below.

- F. Projecting signs. Where projecting signs are permitted as set forth in Schedule I of this article, any nonresidential use may display one projecting sign on the main entrance building facade, provided that:
- 1) The sign is counted toward the lot's wall sign area limit as set forth in this article. The maximum projecting sign area shall be 16 square feet per side
  - 2) The projecting sign shall conform to the wall sign regulations set forth in § 090-120H hereof, except that a projecting sign may extend up to four feet from a building wall
  - 3) The minimum clearance height of a projecting sign shall be eight feet measured from the walking surface below the sign to the bottom of the sign, and the maximum height of a projecting sign shall be 12 feet.
  - 4) The sign shall not project into any public or private right-of-way and shall not be internally illuminated.
- G. Shopping cart corral signage. Where allowed by Schedule I and where shopping cart corrals are shown on a Township-approved site plan or land development plan, each shopping cart corral may have affixed to it a shopping cart corral sign conforming to the following standards:
- 1) The maximum height of a shopping cart corral sign shall not exceed seven feet.
  - 2) The maximum sign area for each face of a shopping cart corral sign shall not exceed four square feet.
  - 3) Shopping cart corral signs shall not be illuminated but may be manufactured from reflective vinyl or other reflective materials.
- H. Wall signs.
- 1) In the PRD, CON, RR, R1 and R2 Districts, the following sign regulations shall apply to allowed principal nonresidential uses (including lawful principal nonconforming uses), other than approved resort complexes/commercial resorts:
    - a. Up to two wall signs shall be permitted on each side of a building that faces onto a street or parking lot, with all wall signs having a combined total maximum wall sign area of 30 square feet, except a total of 50 square feet shall be allowed along a building side that is longer than 100 feet.
  - 2) In the C1, C2, R3 and I Districts and approved resort complexes and commercial resorts, the following sign regulations shall apply to all nonresidential uses:
    - a. The total of all wall signs on each side of a principal building shall not exceed one square foot for each linear foot of building length on which the signs are attached. Wall signs may be attached to a sloped roof, provided they do not extend above the roofline of the building.
- [1] Wall signs on a shopping center or strip mall. Whenever an applicant proposes a row or series of adjoining signs to be placed upon a wall



surface having a common roofline, such signs shall be of the same general design and material so as to create uniformity among the series of signs.

- b. Within the allowed size limits of wall signs, a live or movie theater may install a marquee sign with a mechanically or electronically changeable message.
- c. Awning or canopy signs. Awnings and canopy signs shall be allowed on a principal commercial building, subject to the following:
  - [1] The permitted area of awning or canopy signs shall be one square foot for each two linear feet of awning or canopy, up to a maximum of 16 square feet.
  - [2] No awning or canopy sign shall extend above the top of the awning or canopy.
  - [3] The sign area of an awning or canopy sign shall be counted towards the allowed maximum wall sign area.
- d. Notwithstanding the foregoing, the sign must meet the standards of § 090-140.
- I. Window signs (see definition, which includes door signs). The total of all window signs shall not exceed more than 50% of the area of all of the windows and transparent doors along the side of the building on which they are displayed.
- J. Neon signs. Where neon signs (including signs that are internally lit with similar chemicals) are permitted under Schedule I, an allowed principal commercial use shall display no more than one neon sign. Such sign shall only be allowed if placed in a window.
  - 1) The sign area of the neon sign shall be included within the maximum sign area of wall signs permitted by this article.
  - 2) The sign does not exceed a sign area of 10 square feet.
  - 3) Neon signs may only be illuminated during business hours.
- K. Pedestrian information sign plazas. Pedestrian information sign plazas are permitted as provided in Schedule I of this article, provided that:
  - 1) The maximum height of each pedestrian information sign plaza shall not exceed seven feet.
  - 2) The maximum sign area for each face of a pedestrian information sign plaza shall not exceed 32 square feet.
  - 3) Any lighting shall comply with the glare regulations of this article.
  - 4) Pedestrian information sign plazas shall be located to serve pedestrians within a nonresidential development or lot. However, the Plaza shall be located so that a substantial portion of its sign information shall not be visually readable from any public street.
  - 5) Pedestrian information sign plazas shall have a maximum total height of eight feet.

L. Resort signs. Within an approved resort complex or commercial resort, the following additional signs shall be allowed:

- 1) One freestanding sign may identify the development at each vehicle entrance, with a maximum sign area of 75 square feet on each of two sides and a maximum height of 12 feet.
- 2) One directional sign shall be allowed at each street intersection with a maximum sign area of four square feet and a maximum height of six feet.
- 3) One freestanding sign with a maximum sign area of 20 square feet and a maximum height of six feet shall be allowed at each housing or community unit cluster.
- 4) Each dwelling unit and building may display a personal use and information sign, as provided in this article.
- 5) One directory sign may be located at each housing or amenity cluster to identify the establishments located in buildings, with a maximum sign area of 16 square feet and a maximum height of six feet.
- 6) One amenity identification sign shall be allowed at each development amenity, with a maximum sign area of 16 square feet and a maximum height of 10 feet.
- 7) Other types of resort complex signs are addressed in Subsection H(2) above.

§ 090-130. Miscellaneous individual signs.

A. The following miscellaneous types of individual signs shall be permitted where allowed by Schedule I of this article, provided the sign complies with the other requirements of this article. See Section 090-50 concerning whether a zoning permit is required.

- 1) Automobile dealer vehicle sign. Such signs are permitted as allowed in Schedule I of this article, provided that:
  - a. The sign shall be attached to a vehicle.
  - b. No vehicle shall display more than three such signs.
  - c. No automobile dealer vehicle sign shall exceed two square feet in area.
- 2) Business nameplate signs. Business nameplate signs are permitted as allowed in Schedule I of this article, provided that:
  - a. One square foot of sign area shall be allowed per nonresidential establishment in a nonresidential building. No business nameplate sign shall exceed eight feet in height.
  - b. Business nameplate signs shall not include information pertaining to an off-site activity.
- 3) Charitable special event street banners on or above a public right-of-way. A charitable special event street banner, on or above a public right-of-way, is permitted, as allowed in Schedule I of this article, provided that:

- a. The bottom of the sign shall have a minimum clearance of 17.5 feet above the street surface. The application shall specify the exact location and the method that will be used to attach the sign.
  - b. The sign may be double-faced with 75 square feet on each face.
  - c. PennDOT approval shall be required if a state right-of-way is involved; approval by the Board of Supervisors or its designee is needed over a Township right-of-way. A certificate of insurance shall be supplied to the Township that provides a minimum of \$1,000,000 of liability protection to the Township and its officials and naming the Township and its officials as additional insureds.
  - d. Such sign shall be posted for a maximum of 14 days.
  - e. At the Township's option, the Township may require that Township staff or their designee post and remove the sign, with the costs of such work required to be reimbursed by the applicant.
- 4) Construction sign.
- a. One temporary, nonilluminated sign may be placed on any lot, development or site where construction, repair, or renovation is in progress. Such sign shall have a maximum sign area of 16 square feet for a lot containing up to four dwelling units and 30 square feet for other uses. If the sign is not attached to a building wall, the sign shall have a maximum total height of six feet.
  - b. Construction signs shall be removed upon:
    - (1) The issuance of the last certificate of occupancy, where required; or
    - (2) The end of the related work on the lot where a certificate of occupancy is not required.
  - c. The construction sign shall be removed if construction in question does not commence within 90 days of the installation of said construction sign.
  - d. No construction sign shall be erected for more than 18 consecutive months from the date of issuance of a zoning permit for the installation of the construction sign.
- 5) Farm product sign. Signs announcing the availability of seasonal farm products are permitted as allowed in Schedule I of this article, provided that:
- a. The number of farm product signs shall not exceed two per lot.
  - b. The total area of all farm product signs shall not exceed 20 square feet.
  - c. No single farm product sign shall exceed 10 square feet.
  - d. No farm product sign shall exceed five feet in height.
  - e. The farm product signs shall not be erected more than 15 days in advance of the sales.

- f. All farm product signs shall be removed within five days of the end of the sales.
  - g. The sign shall be located on the same lot as the sale of the seasonal farm product.
- 6) Flag. Flags are permitted in all districts, provided that:
- a. No single flag shall exceed 40 square feet in area (except the United States flag), and no single lot shall fly more than six flags, except individual households may fly their own United States flag.
  - b. Flagpoles shall not exceed 40 feet in height.
  - c. Wall-mounted flags shall not exceed 12 feet in height.
  - d. Note: Federal law stipulates many aspects of etiquette for the United States flag, including through the Flag Code. Some guidelines from the Flag Code include:
    - [1] The United States flag should be lighted at all times at night.
    - [2] The United States flag should not be used for any decoration in general. Bunting of blue, white and red stripes is available for these purposes. The blue stripe of the bunting should be on the top.
    - [3] The United States flag should never be used for any advertising purpose.
    - [4] The United States flag should be cleaned and mended when necessary.
    - [5] When a United States flag is so worn it is no longer fit to serve as a symbol of our country, it should be destroyed by burning in a dignified manner.
  - e. If a flag has an advertising message, it shall be regulated as a type of freestanding sign.
  - f. Decorative flags may be used on residential use properties.
- 7) Incidental sign. Incidental signs are permitted in all districts under the following additional standards:
- a. Each incidental sign shall not exceed a sign area of three square feet.
  - b. An incidental sign shall not exceed a height of five feet if attached to a pole or post, or eight feet if attached to a building wall.
  - c. An incidental sign shall not include advertising.
  - d. Any illumination shall meet § 090-140. The use of reflective materials is encouraged.
- 8) Mural. Murals are permitted as allowed in Schedule I of this article, provided that:
- a. No mural shall cover any windows, doors, or other architectural features.
  - b. No mural shall exceed a height of 15 feet.
  - c. No mural shall exceed an area of 32 square feet, and no more than one mural shall be permitted on a building.

- d. A mural visible to the public shall be integrated into the design of the building and not involve nudity or sexually explicit images.
  - e. No mural shall contain a commercial message or shall advertise a use located in the building on which the mural is located, unless the mural meets all of the regulations for the applicable type of sign.
  - f. The area of a mural shall be included within the maximum sign area of wall signs permitted by this article.
- 9) Personal use and information signs (includes home occupation signs). Except as otherwise provided herein, personal use and information signs are allowed in all districts and shall meet the following additional standards:
- a. No personal use and information sign may exceed two square feet in area.
  - b. The aggregate area of all personal use and information signs on a lot that are readable from a street shall not exceed eight square feet.
  - c. No personal use and information sign may exceed five feet in height.
  - d. Commercial messages in a residential district shall be limited to an on-premises use, such as an approved home occupation.
  - e. Building address numbers shall be posted within clear view of a street in compliance with Chapter 85 of the Middle Smithfield Township Code of Ordinances, in order to provide adequate visibility for emergency responders in vehicles. Such chapter covers such matters as the height, location, size and visibility of such address numbers.
- 10) Political signs. Political signs are permitted in all districts, provided that:
- a. No political sign shall be displayed more than 15 days after the election or vote to which the sign pertains, if it pertains to an election or vote.
  - b. A political sign shall not be posted on Township property, except as may be allowed outside of a polling place on election day.
  - c. The maximum sign size shall be 16 square feet on each of two sides. Any larger sign shall be regulated as an off-premises sign (such as on a billboard).
  - d. A political sign for any candidate or issue shall not be located within 100 feet of any other sign for the same candidate on the same lot that is readable from the same street.
- 11) Real estate signs. Except as otherwise provided herein, real estate signs indicating the availability of real property for lease or sale are permitted in all districts if they meet the following additional provisions:
- a. The real estate sign must be located on the premises being leased or sold.
  - b. Display of real estate signs shall be limited to one per street frontage.
  - c. No real estate sign shall exceed six feet in height unless attached to the side of a building.

- d. A real estate sign in a CON, PRD, RR, R1, R2 or R3 District or for an individual dwelling unit shall not exceed 16 square feet in sign area.
  - e. Except as provided in Subsection A(12)(d) above, a real estate sign shall have a maximum size of 32 square feet. In addition, a lawful existing sign may be temporarily used as a real estate sign.
  - f. All real estate signs shall be removed within seven days after settlement, lease of the property, or expiration of the listing term.
- 12) Special event sign (includes banners). Signs announcing special events, including but not limited to auctions, grand openings, new management, going out of business, and events sponsored by religious, charitable, or public service organizations or occasional festivals within a resort complex/commercial resort are permitted as allowed in Schedule I of this article, provided that:
- a. A zoning permit shall be obtained at least once a year that lists the dates or weeks when the special event signs will be displayed. Such signs shall not be displayed on one lot a grand total of more than 60 days per calendar year, except a maximum total of 90 days shall apply where the special event benefits a charitable or public service organization.
  - b. A maximum of two special event signs are permitted on-site, except four special events signs shall be allowed where the special event benefits a charitable or public service organization.
  - c. No special event sign may advertise an off-site event, except an event that benefits a charitable or public service organization or that is within a resort complex or commercial resort.
  - d. The signs shall comply with § 090-100D, E and F.
  - e. The signs shall comply with the following requirements:
    - [1] Maximum sign area of 10 square feet in residential areas or rural areas.
    - [2] Maximum sign area per sign of 25 square feet in all other areas or within a resort complex or commercial resort.
    - [3] Maximum sign height of 10 feet.
  - f. A maximum of four special events that run for no longer than seven consecutive calendar days per parcel per year are permitted except where the special event benefits a charitable or public service organization.
  - g. Special event signs may be displayed for no more than 14 days prior to the event and no more than two days following the event.
- 13) Subdivision identification sign. Unless otherwise noted herein, subdivision identification signs are permitted as allowed in Schedule I of this article, provided that:
- a. The subdivision contains a minimum of six lots.

- b. The subdivision has received preliminary plan approval from the Board of Supervisors.
  - c. The subdivision identification signs are located on-premises.
  - d. The subdivision identification sign must be landscaped in accordance with § 090-120C.
  - e. There is a maximum of two one-sided subdivision identification signs or one two-sided subdivision identification sign at each entrance to the subdivision.
  - f. The maximum aggregate square footage of subdivision identification signage allowed for each subdivision shall be 32 square feet. Such sign may be attached to a decorative masonry wall with a maximum height of six feet and a maximum length of 12 feet. Such wall shall be treated as a sign for the purposes of setbacks.
  - g. The maximum height for a subdivision identification sign shall be six feet.
- 14) Vending machine sign. Vending machine signs are permitted, provided that:
- a. The sign does not extend in height or area beyond the vending machine.
  - b. The sign is an integral part of a vending machine and cannot be used apart from the vending machine.

§ 090-140. Sign illumination.

Sign illumination applies to all signs and shall be subject to the following regulations:

- A. Prohibited sign illumination. The following types of sign and graphic illumination are prohibited in all areas:
  - 1) Bare bulb illumination;
  - 2) Flame illumination; and
  - 3) Beacons or strobe lights.
- B. Types of sign illumination.
  - 1) Indirect illumination. Indirect illumination of signs is permitted in all districts.
  - 2) Internal illumination. Internal illumination of signs is permitted only in C1, C2 and I districts. Where allowed, internal sign illumination shall involve one of the following methods:
    - a. Only the letters, logos, and/or symbols are illuminated, shining through a solid non-white background (as seen in Figure 9-15); or

FIGURE 9-15 - INTERNAL ILLUMINATION



- b. Illuminated channel letters, logos, and/or symbols are utilized (as seen in Figure 9-16).

FIGURE 9-16 - INTERNAL ILLUMINATION II



- 2) Floodlight illumination. Floodlight illumination is permitted only in C1, C2 and I districts.
- C. Regulations on sign illumination, electronically changeable message signs, and movement of signs.
  - 1) Lighting shall be aimed and shielded so that no light directly shines on residential properties.
  - 2) Lighting shall be aimed and shielded so that no light shines in the eyes of motorists or pedestrians.
  - 3) The lighting shall not be located more than 15 feet from the sign.
  - 4) Shielding shall be provided to prevent glare. All sign illumination must comply with regulations of this article regarding glare. See § 100-080.
  - 5) On-premises signs may be illuminated whenever a business is open plus 1/2 hour prior to opening and 1/2 hour after closing; provided, however, there shall be no restriction on illumination necessary for the security and/or safety of the facility in question and its premises.
  - 6) Signs shall not include electronically or digitally moving or flashing or animated or flickering images or letters. Electronically changing messages shall not change more often than once every 15 seconds, except that signs with an electronically changing image of more than 30 square feet shall not change more often than once every 30 seconds. An off-premises sign shall not be an electronically changeable message sign.



- 7) An electronically changeable message sign shall not have an illumination level between sunset and sunrise of more than 250 nits, except the maximum level shall be 150 nits if such sign is a pre-existing nonconforming sign located in any zoning district other than the C1, C2 and/or I district. The maximum luminance between sunrise and sunset shall be 5,000 nits. Such sign shall have a light-sensing device that will automatically adjust the brightness of the display as the natural light conditions change, to comply with this lighting level. Prior to receiving a final permit for the sign, the applicant shall provide written evidence from a qualified independent professional that these maximum lighting levels are being met. The qualifications of such professional shall be submitted in writing.
- 8) No two electronically changeable message signs shall be spaced less than five hundred (500) feet apart along any public road within the Township. The spacing requirement applies to signs located on both sides of the road.
- 9) Maximum sign area for an electronically changing message sign is 40 square feet per face.
- 10) No more than one electronically changeable message sign shall be permitted per lot, subject to the restrictions and requirements of this Chapter.
- 11) No electronically changeable message sign shall be located within 500 feet of any lot containing a residential use and/or any lot located within a residential zoning district.

§ 090-150. Nonconforming signs.

A. Registration of nonconforming signs; illegal signs.

- 1) If the applicant presents sufficient information to the Zoning Officer to determine that a nonconforming sign is lawful, or if Township records show that such sign is lawful, then upon a written request, the Zoning Officer may issue a certificate of nonconformity to the applicant regarding an existing sign.
- 2) The Zoning Officer shall have the authority to document some or all existing signs and to investigate whether or not any sign is legal. If the Zoning Officer determines that a sign is not legally allowed and is not lawfully nonconforming, then the Zoning Officer shall have the authority to issue an enforcement notice and to follow the allowed process to have the sign removed or brought into conformity with this article, as provided in § 090-040 above.

B. The right to continue to display a nonconforming sign shall become void if a lawful nonconforming sign has been discontinued for one year or more. In such case, the sign shall be presumed to be abandoned, and any subsequent use of such sign shall be in conformity with the regulations of this article applicable to the district in which it is located.

- C. Removal of nonconforming signs. A nonconforming sign, together with its panel cabinet, supports, braces, anchors, and electrical equipment, shall be removed or brought into compliance at the expense of the owner within 60 days of notice from the Township to the owner in any of the following situations:
- 1) When a nonconforming sign has been considered abandoned under Subsection B above; or
  - 2) When the sign becomes a nuisance sign, as defined by § 090-020.
- D. Alteration of nonconforming signs. Any sign lawfully existing or under construction on this article and which does not conform to one or more provisions of this article may be continued in operation and maintained indefinitely as a legal nonconforming sign subject to compliance with the provisions of this § 090-150 and the following requirements:
- 1) Maintenance. The sign shall be adequately maintained and continue to advertise an active use.
  - 2) Area. The total area or height of a nonconforming sign shall not be increased except if the increase would conform with this article. A nonconforming sign shall not be moved or relocated, unless the new location would make the sign less nonconforming.
- E. Replacement. Nonconforming signage may be replaced in its entirety, provided that there is no additional nonconformity or increase in the degree of nonconformity of the replacement signage.
- F. Temporary removal. Nonconforming signage may also be temporarily removed from the lot or structure to which it is affixed for a period of up to 180 consecutive days to make repairs to or modernize the signage or structure. A sign removed for a longer period of time shall no longer be considered to be nonconforming.
- G. Moving. A nonconforming sign shall not be moved to another position on a structure or lot unless the new location is less nonconforming or unless an immaterial change in location occurs following modernization of the sign.
- H. Nonconforming signs not kept in proper repair. All nonconforming signs and/or sign structures that are not kept in proper repair (such as having missing or broken components) shall be identified by the Zoning Officer. The Zoning Officer shall notify the property owner of the sign's condition. The owner shall repair or remove the sign within 60 days of receipt of notification from the Township, unless the Zoning Officer specifies a shorter time period in the notice because of hazards or a longer time period for reasons of necessity. If an appeal is not submitted, and the sign is not repaired or removed in such time period after notification from the Township, the Township may order the removal of the sign at the expense of the owner.

- I. Voluntary removal or replacement of nonconforming signs. A lawful existing nonconforming sign may be replaced with a new sign, provided the new sign is not more nonconforming in any manner than the previous sign.
  - 1) The application fee for a zoning sign permit application that would replace a nonconforming sign with a conforming sign shall be waived.

**ARTICLE X: ENVIRONMENTAL PROTECTION AND NUISANCE STANDARDS**

**DIVISION 100: ENVIRONMENTAL PROTECTION AND NUISANCE STANDARDS**

**§ 100-010. Erosion Control.**

- A. The landowner, person and/or entity performing any earth disturbance shall utilize sufficient measures to control sedimentation and soil erosion of lands and waters within Middle Smithfield Township .
- B. The disturbed land area and the duration of exposure shall be kept to a practical minimum.
- C. Except for agricultural activities, any earth disturbance requiring Monroe County Conservation District (MCCD) review and approval under state regulations, as amended, shall first require the submission of an erosion and sediment pollution control plan to the MCCD and shall be subject to the review and approval of MCCD. A copy of the approval from the MCCD as well as the approved copy of erosion and sediment pollution control plan and related documents/calculations shall be required to be submitted to the Township prior to the start of any earth disturbance.
- D. All earth disturbance activities shall be governed by Township and state code and regulations, as amended.

**§ 100-020. Nuisances and Hazards to Public Safety.**

- A. No landowner, tenant or lessee shall use or allow to be used any land or structures in a way that results or threatens to result in any of the following conditions:
  - 1) Transmission of communicable disease, including but not limited to, conditions that may encourage the breeding of insects or rodents.
  - 2) A physical hazard to the public or a physical hazard that could be an attractive nuisance that would be accessible by others.
  - 3) Pollution to ground waters or surface waters, other than as authorized by a state or federal permit.
  - 4) Risks to public health and safety, such as but not limited to explosion, fire, or biological and/or chemical hazards.
  - 5) Interference with the reasonable use and enjoyment of property by a neighboring landowner of ordinary sensitivities.
- B. Additional information. If the Zoning Officer has reason to believe that the applicant for a proposed use may have difficulty complying with the standards of this Article, then the Zoning Officer may require an applicant to provide written descriptions of proposed machinery, hazardous substances, operations and safeguards for review and approval by the Zoning Officer, and/or his/her designee, prior to the issuance of any zoning permits.

**§ 100-030. Wetlands and Water Bodies.**

- A. The Zoning Officer may require an applicant to prove that a suspect area proposed for alteration does or does not meet the state or federal definition of a wetland.
- B. A “wetland” shall be defined as provided under federal and state regulations, whichever is more inclusive. Wetlands shall be delineated by persons with professional training and experience in such delineations. The credentials of the person delineating the wetlands shall be submitted to the Township. The Township may require a wetland delineation whenever features are present that may indicate the possible presence of wetlands. When wetlands are present, the applicant shall prove compliance with applicable federal, state and local regulations, as amended. The Township may also require a jurisdictional determination from the US Army Corp of Engineers if deemed necessary by the Township. Refer to Chapter 160 regarding Stormwater Management Ordinance and the provisions therein shall apply.
- C. Setback. No buildings, vehicle parking, driveways or business outdoor storage shall be located within 50 feet from the edge of a wetland or the top of a bank of any watercourse, or such greater distance as may be required by applicable federal, state or local statutes, regulations or court orders.

**§ 100-040. Noise.**

- A. Sound Levels. No person shall operate, or cause to be operated, within the Township, any source of continuous sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use when measured at the property line of the adjoining property during the times specified in the Continuous Sound Levels Table 1 set forth below and/or as otherwise required in Chapter 136. In the event there is a conflict between the provisions of this Section 100-040 and Chapter 136, the more restrictive provisions shall control and govern.
- B. **Table 1: Continuous Sound Levels.**

Receiving Land Use Category		Time	Sound Level Limit
I.	At a lot line of a residential use in a residential district	1) 7:00 a.m. - 9:00 p.m., other than Sundays, Christmas Day, Thanksgiving Day, New Years Day, Easter, Labor Day and Memorial Day.	60 dBA

		2) 9:00 p.m. - 7:00 a.m., plus Sundays, Christmas Day, Thanksgiving Day, New Years Day, Easter, Labor Day and Memorial Day.	50 dBA
II.	At a lot line of a residential use in a commercial or industrial district	1) Same as above	65 dBA
		2) Same as above	60 dBA
III.	At any lot line other than No. I or No. II above	At all times and days	65 dBA

Note: dBA means “A” weighted decibel

C. Exceptions. The maximum permissible sound levels by receiving land use established in Table 1 above do not apply to any of the following noise sources:

- 1) The emission of sound for the purpose of alerting persons to the existence of an emergency.
- 2) Repair or installation of utilities or construction of structures, sidewalks or streets between the hours of 7:00 a.m. and 8:00 p.m., except when public health or safety is involved. Such emergency repairs shall not be restricted by time.
- 3) Lawn mowers, snow blowers, leaf blowers and household power tools between the hours of 7:00 a.m. and 10:00 p.m.
- 4) Licensed game hunting activities on property where such activities are authorized between the hours of 7:00 a.m. and 9:00 p.m.
- 5) Agricultural activities, including the raising of livestock, but not exempting a commercial kennel.
- 6) Motor vehicle operations on public streets (covered in Pennsylvania Department of Transportation Regulations, as amended).
- 7). Public celebrations, specifically authorized by the Township.
- 8) Unamplified human voices.
- 9) Routine ringing of bells and chimes by a place of worship or a municipal clock.
- 10) Snow-making within a commercial resort.
- 11) Festivals and similar special events that involve a total maximum of 20 days per calendar year per lot.

**§ 100-050. Smoke, Ash, Dust, Fumes, Vapors and Gases.**

- A. There shall be no emission of smoke, ash, dust, dirt, fumes, vapors or gases which violate the Pennsylvania air pollution control laws or other regulations of the Pennsylvania Department of Environmental Protection (DEP) or the U.S. Environmental Protection Agency, as amended.
- B. No use shall generate odors or dust that are offensive to persons of average sensitivities beyond the boundaries of the subject lot.

**§ 100-060. Heat.**

- A. No use shall produce heat perceptible beyond its lot lines.

**§ 100-070. Odor.**

- A. No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines.
- B. Exception. Subsection A above shall not apply to odors normally created as part of an agricultural or horticultural use except that no animal waste produced off of the property shall be stockpiled unless processed to eliminate all offensive odors.

**§ 100-080. Control of Light and Glare.**

- A. No use shall produce an intense, bright light or a reflection of an intense, bright light beyond its lot lines.
  - 1) Any lighting for exterior environments shall be arranged to minimize uncontrolled light, glare, over lighting, light trespass and sky glow.
  - 2) Blinking, flashing, lights which change intensity including beacon lights are prohibited, except as is required by the Federal Aviation Administration for safety reasons.
- B. The lights in and around parking areas shall provide for non-glare lights focused downward. The incident light intensity provided at ground level shall be a minimum of 0.3 foot-candle anywhere in the area to be illuminated. Lighting for parking areas shall be provided by fixtures with a mounting height not more than twenty-five (25) feet or the height of the building; whichever is less.
- C. The objective of these specifications is to minimize undesirable off-premises effects. No use shall produce glare off the premises by illumination originating on the premises. No bare or direct light source shall be visible beyond the lot lines. Only diffused or reflected lights shall be visible beyond the lot line. Illumination from light originating on the site shall not exceed 0.5 foot-candle at the lot line of a residential or residentially zoned lot. No light shall shine directly into windows or onto streets and driveways in such manner as to interfere with or distract driver's vision.
- D. No sodium vapor lights shall be permitted.
- E. Illumination Levels. Lighting, where required by this Chapter, or otherwise required or allowed by the Township, shall have luminance, uniformities and

glare control in accordance with the recommended practices of the Illuminating Engineering Society of North America (IES), as amended, unless otherwise directed by the Township. A copy of the IES recommendations shall be submitted with the Subdivision/Land Development Plan application, as regulated by the Township SALDO.

- F. See also sign lighting regulations in Section 200-090-140.
- G. Gasoline Sales Canopies. Any canopy over gasoline pumps shall have light fixtures recessed into the canopy or screened by the canopy or enclosures or otherwise controlled so that lighting elements are not directly visible from another lot or street.
- H. Lighting of Horizontal Surfaces. For the lighting of predominantly horizontal surfaces (such as parking areas, outdoor storage areas and vehicle sales areas), lighting fixtures shall be aimed downward and shall include full cut off and shielding measures as needed to properly direct the light downward.
- I. Off Premises Signs. Any new exterior lighting of an off-premises sign shall be attached to the top of the off-premises sign and project downward directly onto the sign, with minimum spillover.
- J. Lighting of businesses after hours that the business serves the public shall be reduced to a level that is necessary for safety and security within the restrictions provided for in this Section.
- K. All outside lighting within the Township shall meet and comply with the following standards and requirements:
  - 1) All lighting shall be aimed, located, designed, fitted, shielded and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
  - 2) Directional luminaires such as floodlights and spotlights, when their use is specifically approved by the Township, shall be so shielded, installed and aimed that they do not project their output onto the properties of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way. Floodlights installed above grade on residential properties, except when motion-sensor actuated, shall not be aimed out more than 45° from straight down. When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be adjusted and/or fitted with a shielding device to block the view of the glare source from that property.



- 3) Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until no more than one-half hour after closing, unless otherwise specifically permitted in this Chapter.
- 4) The use of floodlights and wall-mounted luminaires (wall packs) to illuminate parking areas, shall not be permitted unless it can be proven to the satisfaction of the Township that the employment of no other acceptable means of lighting is possible.
- 5) Lighting for parking areas and vehicular and pedestrian traffic ways for commercial, industrial and institutional uses shall be automatically extinguished nightly within 1/2 hour of the close of the facility unless otherwise specifically permitted in this Chapter. On/off control shall be by astronomic programmable controller with battery or capacitor power-outage reset. When after-hours site safety/security lighting is proposed, such lighting shall not be in excess of twenty-five (25) percent of the number of fixtures required or permitted for illumination during regular business hours. The use of greater than 25% of the normal lighting for all-night safety/security lighting shall require specific Township approval, based on the unique nature of the use or elevated area crime justification. Alternatively, where there is reduced but continued onsite activity throughout the night that requires site-wide even illumination, the use of dimming circuitry to lower illumination levels by at least 50% after 11:00 p.m. or after normal business hours, or the use of motion-sensor control, shall be permitted.
- 6) Glare control shall be achieved primarily through the use of such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle and luminaire placement.
- 7) Except as permitted for certain recreational lighting and/or as may be specifically permitted elsewhere in this Chapter, luminaires shall not be mounted in excess of twenty (20) feet above finished grade of the surface being illuminated. Luminaires not meeting full-cutoff criteria, when their use is specifically allowed by the Township, shall not be mounted in excess of 16 feet above finished grade. Mounting height shall be defined as the distance from the finished grade of the surface being illuminated to the optical center of the luminaire. Where proposed parking lots consist of 100 or more contiguous spaces, the Township may, at its sole discretion, based partially on mitigation of potential off-site impacts, allow a luminaire mounting height not to exceed 25' above finished grade.

**§ 100-090.     Vibrations.**

- A.     No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot lines, with the exception of vibration produced as a result of temporary construction activity.

**§ 100-100.     Radioactivity.**

- A.     Any proposed activity in the Township shall not emit any dangerous radioactivity at any point on the site.

**§ 100-110.     Electricity.**

- A.     Electric or electronic equipment shall be shielded so there is no interference with any radio or television reception at the lot line or beyond as the result of the operation of such equipment.

## ARTICLE XI: FLOODPLAIN REGULATIONS

### **DIVISION 110: FLOODPLAIN MANAGEMENT** **STANDARDS**

#### **§ 110-010. Floodplain Overlay District.**

- A. The Floodplain Overlay District is hereby created to be coterminous with the areas which are subject to the one-hundred (100) year flood, as identified in the most current *Flood Insurance Study* and the accompanying *FIRM - Flood Insurance Rate Map* issued for the Township by the Federal Emergency Management Agency (FEMA). In addition to all other applicable standards of this chapter, the floodplain regulations in this Article shall apply in the Floodplain Overlay District.

#### **§ 110-020. Floodplain Statutory authorization.**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Floodplain Management Act of 1978<sup>67</sup>, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, this Article is hereby adopted by the Township Board of Supervisors as authorized.

#### **§ 110-030. Floodplain Applicability.**

This Article shall apply to all new construction, development, and improvements, including the placement of fill material, in any identified floodplain area.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless a permit has been obtained from the Floodplain Administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures, unless required by other provisions of this Article.

#### **§110-040. Floodplain General provisions.**

- A. Intent. This Article is intended to meet the requirements of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act<sup>68</sup>, as amended. More specifically, this Article contains provisions generally necessary to comply with the requirements of the National Flood Insurance Program as well as the requirements of the Pennsylvania Flood Plain Management Act, as amended, and the associated regulations, as amended, and adopted by the Pennsylvania Department of Community and Economic Development, pursuant to that Act. This Section is also intended to:
- 1) Promote the general health, welfare, and safety of the community.

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<sup>67</sup> Editor's Note: See 32 P.S. § 679.101 et seq.

<sup>68</sup> Editor's Note: See 32 P.S. § 679.101 et seq.

- 2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
  - 3) Minimize danger to public health by protecting water supply and natural drainage.
  - 4) Reduce financial burdens imposed on the community, its governmental units, and its residents by preventing excessive development in areas subject to flooding.
  - 5) Maintain the existing hydrologic regime through the sound management of floodplains for their capacity to convey, transport, store and dissipate flood flow volumes and velocities, to protect water quality and to maintain stream channel stability.
  - 6) Eliminate disturbance in floodplains of watercourses with a channel identified as vulnerable to destabilization due to disturbance and development within the floodplain.
  - 7) Maintain and restore stream buffers and their water quality values.
  - 8) Reduce the number of persons unknowingly investing in new property that is prone to flooding.
  - 9) Ensure that inappropriate development does not occur along previously unstudied segments of waterways, such as areas of alluvial soils that were not studied in depth.
- B. Warning and disclaimer of liability. The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages. This Article shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.
- C. Abrogation and greater restrictions. This Article XI supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.
- D. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of this Article, which shall remain in full force and effect, and for this purpose the provisions of this Article are hereby declared to be severable.

**§ 110-050. Floodplain Administration.**

- A. Designation of the Floodplain Administrator. The Zoning Officer is hereby appointed to administer and enforce this Article and is referred to herein as the Floodplain Administrator, unless a different person is appointed to serve that function by the Board of Supervisors. The Floodplain Administrator may fulfill the duties and responsibilities set forth in these regulations, delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR. 59.22.
- B. Zoning permit required. A zoning permit shall be required before any construction or development is undertaken within any area of the Township, including floodplain areas.
- C. Duties and responsibilities of the Floodplain Administrator (in addition to the duties and responsibilities of the Zoning Officer):
- 1) The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and Ordinances.
  - 2) Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended)<sup>69</sup>; the Pennsylvania Dam Safety and Encroachments Act<sup>70</sup> (Act 1978-325, as amended); the Pennsylvania Clean Streams Act<sup>71</sup> (Act 1937-394, as amended); and the United States Clean Water Act, § 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
  - 3) In the case of existing structures, prior to the issuance of any development/building permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
  - 4) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that

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<sup>69</sup> Editor's Note: See 35 P.S. §750.1 et seq.

<sup>70</sup> Editor's Note: See 35 P.S. §693.1 et seq.

<sup>71</sup> Editor's Note: See 35 P.S. §691.1 et seq.

the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and Ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

- 5) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- 6) In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and Ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- 7) The Floodplain Administrator shall consider the requirements of the 34 Pa. Code and the current versions of the IBC and IRC.

D. Application procedures and requirements. An application for a permit shall be made in accordance with this Article, in addition to the information required by § 084-010. The application shall include the following:

- 1) A listing of other permits required.
- 2) A brief description of the proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
- 3) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings and structures.
- 4) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  - a. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and Ordinances.
  - b. All utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

- c. Adequate drainage is provided so as to reduce exposure to flood hazards.
  - d. Structures will be anchored to prevent flotation, collapse, or lateral movement.
  - e. Building materials are flood resistant.
  - f. Appropriate practices that minimize flood damage have been used.
  - g. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- 5) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
- a. North arrow, scale, and date.
  - b. Topographic contour lines.
  - c. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.
  - d. The location of all existing streets, drives, and other accessways.
  - e. The location of any existing bodies of watercourses, identified floodplain areas, limits of earth disturbance, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- 6) Plans of all proposed buildings, structures and other development, drawn at suitable scale showing the following:
- a. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.
  - b. The elevation of the base flood.
  - c. Supplemental information as may be necessary under 34 Pa. Code and the current versions of the IBC or IRC.
- 7) The following data and documentation:
- a. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - b. Documentation, certified by a registered professional engineer, to show that the cumulative effect of any proposed development within an AE Area without floodway, when combined with all other existing and

anticipated development, will not increase the base flood elevation more than one foot at any point.

- c. A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.
- d. Detailed information needed to determine compliance with § 110-150J, Storage, and § 110-080D(7), Dangerous materials and substances, including:
  - [1] The amount, location and purpose of any materials or substances referred to in § 110-150J and § 110-080D(7) which are intended to be used, produced, stored or otherwise maintained on site.
  - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 110-080D(7) during a base flood.
- e. The appropriate component of DEP's "Planning Module for Land Development."
- f. Where any excavation or grading is proposed, a plan meeting the requirements of DEP, to implement and maintain erosion and sedimentation control and stormwater management.

8) Any other pertinent information as may be required by the Floodplain Administrator to determine compliance with this Article.

- E. Review of application by others. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (such as the Planning Commission, Township Engineer, MCCD, etc.) for review and comment.

#### **§ 110-060. Floodplain Development Standard.**

In designated floodplain areas, only the following types of activities/development in compliance with this Article shall be permitted:

- A. Activities/development that are compatible with maintaining the existing hydrologic regime and do not alter the cross-sectional dimension of the floodplain and its storage capacity, except in compliance with this Article.



- B. Activities/development permitted under Title 25, Chapter 105, of the Pennsylvania Code, or conveyances required by Title 25, Chapter 102.
- C. Activities/development specifically authorized by this Article.

**§ 110-070. Identification of Floodplain Areas.**

- A. Identification. The identified floodplain area shall be any area of the Township classified as a Special Flood Hazard Area (SFHA) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated May 2, 2013, and issued by FEMA or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. Adoption of FIS and FIRMs. The FIS and FIRMs referenced in § 110-070A, and any subsequent revisions and amendments are hereby adopted by the Township and declared to be part of this Article.
- C. Description of identified floodplain areas. The identified floodplain area shall consist of the following specific areas:
  - 1) Floodway area. Those areas identified as floodway on the FIRM as well as those floodway areas which have been identified in other available studies or sources of information for those AE Areas where no floodway has been identified in the FIS. The floodway represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot at any point.
  - 2) AE Area without floodway. Those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.
  - 3) A Area.
    - a. Those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable source shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
    - b. In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses

shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, mapping and computations, shall be submitted in sufficient detail to allow a thorough technical review by the Township.

- D. Changes in identification of area. The identified floodplain area may be revised or modified by the Township where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of changes to the Special Flood Hazard Area by submitting technical or scientific data.
- E. Boundary disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

#### **§ 110-080. Prohibited Development in Floodplain.**

In identified floodplain areas, the following shall be prohibited:

- A. Buildings: all walled and roofed buildings.
- B. Any new construction or development that will in any manner retard, divert or alter the natural flow of floodwaters on the site except activities permitted by DEP under Title 25, Chapter 105, of the Pennsylvania Code, or conveyances required by Title 25, Chapter 102. (See definition of "development.")
- C. Floodway. No new construction or development shall be permitted in any floodway area. In the absence of a floodway area, no new construction or development shall be permitted within the area measured 50 feet landward from the top-of-bank of any watercourse unless a permit is obtained from DEP.
- D. Developments of special concern.
  - 1) The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities shall be prohibited within the 100-year floodplain:
    - (a) Hospitals.
    - (b) Nursing homes.
    - (c) Criminal and civil detention facilities, including without limitation, prisons.

- 2) Manufactured home park or subdivision. The commencement of, or any construction of, a new manufactured home park or manufactured home park or subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.
- 3) Recreational vehicles. The parking of any recreational vehicle unless it is fully licensed and ready for highway use.
- 4) Fill. The placement of fill material that is not associated with a permitted activity.
- 5) Sewage disposal. On-lot or community subsurface sewage disposal systems.
- 6) Mineral extraction. Structures associated with mining or oil and gas production, i.e., water storage, fluid containment, or well pads.
- 7) Dangerous materials and substances. Any type of development or activity shall be prohibited which will be used for the production or storage of any of the following dangerous materials or substances; or, which will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or, which will involve the production, storage, or use of any amount of radioactive substances. The following list of materials and substances are considered dangerous to human life:
  - a. Acetone.
  - b. Ammonia.
  - c. Benzene.
  - d. Calcium carbide.
  - e. Carbon disulfide.
  - f. Celluloid.
  - g. Chlorine.
  - h. Hydrochloric acid.
  - i. Hydrocyanic acid.
  - j. Magnesium.
  - k. Nitric acid and oxides of nitrogen.
  - l. Petroleum products (gasoline, fuel oil, etc.).
  - m. Phosphorus.
  - n. Potassium.
  - o. Sodium.
  - p. Sulphur and sulphur products.
  - q. Pesticides (including insecticides, fungicides, and rodenticides).

- r. Radioactive substances, insofar as such substances are not otherwise regulated.
- s. Any other substance as determined by Township.

#### **§ 110-090. Permitted Activities/Development in Floodplain.**

The following activities/development are permitted in identified floodplain areas, provided such activity/development does not involve any activity/development specifically prohibited by § 110-080, Prohibited development:

- A. Agricultural activities.
- B. Plant nurseries.
- C. Forestry and seed production.
- D. Fish hatcheries.
- E. Parking lots constructed to existing grade.
- F. Temporary fairs or carnivals.
- G. Accessory uses for residential purposes.
- H. Private sportsmen's club activities (for example, archery, hunting, horse shoes, etc.).
- I. Athletic facilities not involving structures (for example, sports field).
- J. Orchards.
- K. Wildlife sanctuaries.
- L. Boat launch sites constructed to existing grade.
- M. Stormwater conveyance and stormwater management facilities for water quality and quality control as outlined in this Article.
- N. The parking of recreational vehicles which are fully licensed for highway use.

#### **§ 110-100. Unspecified Activities/Development in Floodplain.**

Any activity/development not expressly permitted in § 110-090 shall only be permitted by variance and shall be undertaken only in full compliance with § 110-140, Variances, and § 110-150, Design and construction standards. However, no activity/development shall be permitted which involves any activity/development expressly prohibited by § 110-080, Prohibited development.

#### **§ 110-110. Watercourses; Stream Banks.**

- A. Alteration or relocation of watercourse; restoration of stream banks.
  - 1) Alteration or relocation of watercourse.
    - a. No encroachment, alteration, improvement or development of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action, FEMA, and DCED have been notified in writing by the applicant by certified mail, and until all required permits

or approvals have been first obtained from the DEP Regional Office, and other applicable agencies. The applicant shall provide the Township with proof of the required notifications and copies of any responses.

- b. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.

- 2) Restoration of unstable stream banks. No stream bank restoration or stabilization projects shall be undertaken until the applicant provides a detailed report addressing the fluvial geomorphology of stable reaches above and below the unstable reach. Any restoration or stabilization project shall include all necessary measures to ensure the maintenance of stability in the adjacent stable reaches of the stream channel.

- B. Letter of map revision. Technical or scientific data shall be submitted by the applicant to FEMA for a letter of map revision (LOMR) as soon as practicable but within six months of the completion of any new construction, development or other activity resulting in changes in the base flood elevation. The situations when a LOMR or a conditional letter of map revision (CLOMR) are required are:

- 1) Any development that causes a rise in the base flood elevations within the floodway; or
- 2) Any development occurring in Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- 3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

#### **§ 110-120. Existing Structures in Floodplain Area.**

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure in the identified floodplain area, the following provisions shall apply:

- A. Expansions. Any substantial improvement to an existing structure which results in the horizontal expansion of the structure within the floodway shall be prohibited.
- B. Floodways. No vertical expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the base flood elevation.
- C. AE Area without floodway. No vertical expansion or enlargement of an existing structure shall be allowed within any AE Area without floodway that would,

together with all other existing and anticipated development, increase the BFE more than one foot at any point.

- D. AE Area without floodway and A Area. No permitted expansion or enlargement of an existing structure shall be allowed within 50 feet landward from the top-of-bank of any watercourse within any AE Area which lacks a designated floodway or within any A Area unless necessary permits are obtained from DEP.
- E. Danger to human life. No modification, alteration, reconstruction, or improvement of any kind to an existing structure shall be permitted which involves any activity which may endanger human life as listed in § 110-080D(7).
- F. Substantial improvements. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- G. Less than substantial improvements. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value, shall be elevated to the greatest extent possible.
- H. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall only be permitted by variance and shall be undertaken only in full compliance with § 110-140, Variances, and § 110-150, Design and construction standards.
- I. Construction codes. The above activity shall also address the requirements of the 34 Pa. Code, as amended, and the current versions of the IBC and IRC.

**§ 110-130. Floodplain Application to Existing Lots or Parcels of Record, or Newly Created Lots or Parcels.**

- A. Existing lots or parcels of record. In the case where an existing lot or parcel of record is located wholly within an identified floodplain area, or where the usable area of a lot or parcel partially within any identified floodplain area is found to be inadequate for the proposed development, any prohibited development listed in § 110-080 may only be permitted by variance in accord with § 110-140.
- B. Newly created lots or parcels.
  - 1) After the effective date of this Article, every lot or parcel created for development purposes shall contain an area adequate for the proposed use outside of an identified floodplain area, except as provided in § 110-130B(2) below. The subdivision plan and deed for any such lot or parcel shall include a restriction that the lot or parcel shall not be used for any development.

- 2) After the effective date of this Article, the subdivision plan and deed for any lot or parcel created for non-development purposes (such as forestry or agriculture) which contains any identified floodplain area shall include a restriction that the lot or parcel shall not be used for any development which does not comply with the Township floodplain regulations in effect when such development is proposed.
- 3) No variance shall be granted for any development in any identified floodplain area contained within any lot or parcel created after the effective date of this Article. No variance shall be granted for any development in any identified floodplain area contained on any development plans submitted, after the effective date of this Article.
- 4) All subdivision proposals containing at least 50 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in the format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

#### **§ 110-140. Floodplain Variances.**

If compliance with any of the requirements of this Article<sup>110</sup> would result in an exceptional hardship to a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements, in accordance with the procedures contained in § 083-060 and the following:

- A. Alternatives analysis. No variance shall be granted until the applicant has performed an alternatives analysis to find practicable alternatives to development in the identified floodplain area.
- B. Floodway. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the Base Flood Elevation (BFE). Where a variance may be granted, necessary permits shall be obtained from the DEP Regional Office. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- C. AE Area without floodway. No variance shall be granted for any construction, development, use, substantial improvement or activity within any AE Area without floodway that would, together with all other existing and anticipated development, increase the BFE greater than one foot at any point.
- D. AE Area without floodway and A Area. No variance shall be granted for any construction, development, use, substantial improvement or activity within 50 feet landward from the top-of-bank of any watercourse within any AE area which lacks a designated floodway or within any A Area unless necessary permits are obtained from DEP.
- E. Elevation required. Any building permitted by variance shall be elevated to the regulatory flood elevation. Within any identified floodplain area, any new construction or substantial improvement of a residential structure or nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. The regulatory flood elevation is defined as the BFE plus a freeboard safety factor of one and one-half feet. In A Zones, the regulatory flood elevation shall be determined in accordance with § 110-070C(3).
- F. Design and construction standards. Any development permitted by variance shall comply with the requirements of § 110-150 and all other applicable requirements of the National Flood Insurance Program.
- G. Substantial improvements. The Zoning Hearing Board may grant a variance to the prohibition of substantial improvements to existing structures in identified floodplain areas, provided all requirements of this § 110-140 are satisfied.
- H. Developments of special concern. No variance shall be granted for any development of special concern identified in § 110-080D.
- I. Newly created lots or parcels. No variance shall be granted for any development in any identified floodplain area contained within any lot or parcel created after the effective date of this Article. No variance shall be granted for any development in any identified floodplain area contained on any development plans submitted, after the effective date of this Article.
- J. Least modification. If granted, a variance shall involve only the least modification necessary to provide relief.
- K. Conditions. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- L. Written notice. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:



- 1) The granting of the variance may result in increased premium rates for flood insurance.
  - 2) Such variances may increase the risks to life and property.
- M. Review factors. In reviewing any request for a variance, the Zoning Hearing Board shall determine that the granting of the variance will not:
- 1) Result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.
  - 2) Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local Ordinances and regulations.
- N. Record. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year under this § 110-140 shall be included in the annual report to FEMA.

#### **§ 110-150. Floodplain Design and Construction Standards.**

The following minimum standards, in addition to all applicable National Flood Insurance Program requirements, shall apply to any construction and development approved within any identified floodplain area:

- A. Residential and nonresidential structures.
- 1) In AE Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
  - 2) In A Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 110-070C(3) of this Article.
  - 3) The design and construction standards and specifications contained in the most current versions of the International Building Code (IBC) and the International Residential Code (IRC) and ASCE 24 and 34 Pa. Code (Chapters 401 to 405, as amended) shall be utilized.
- B. Space below the lowest floor.
- 1) Fully enclosed space below the lowest floor (excluding basements), which will be used solely for the parking of a vehicle, building

access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

- 2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

C. Manufactured homes.

- 1) All manufactured homes, and any improvements thereto, shall be:
  - a. Placed on a permanent foundation.
  - b. Elevated so that the lowest floor of the manufactured home is at least one and one-half feet above the base flood elevation.
  - c. Anchored to resist flotation, collapse, or lateral movement.
- 2) Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the IRC or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto, shall apply and 34 Pa. Code, Chapters 401 to 405, so that the lowest floor of the manufactured home is at least one and one-half feet above the base flood elevation.
- 3) Consideration shall be given to the installation requirements of the current BC and IRC and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturer's standards for anchoring cannot be provided or were not established for the unit's proposed installation.

D. Accessory structures. Structures accessory to a principal building need not be elevated to remain dry, but shall comply, at a minimum, with the following requirements:

- 1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- 2) Floor area shall not exceed 100 square feet.
- 3) The structure shall have a low damage potential.
- 4) The structure shall be located on the site so as to cause the least obstruction to the flow of floodwaters.
- 5) Power lines, wiring, and outlets shall be elevated to the regulatory flood elevation.
- 6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
- 7) Sanitary facilities are prohibited.
- 8) The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

E. Fill. If fill is used, it shall:

- 1) Extend laterally at least 15 feet beyond the building line from all points.
- 2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted.

- 3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.
  - 4) Be no steeper than one vertical to two horizontal feet unless substantiated data, justifying steeper slopes, are submitted to, and approved by, the Floodplain Administrator.
  - 5) Be used to the extent to which it does not adversely affect adjacent properties.
- F. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner in accordance with all applicable Township stormwater control requirements. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- G. Water and sanitary sewer facilities and systems.
- 1) All new or replacement water supply and sanitary sewage facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
  - 2) Sanitary sewage facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - 3) No part of any on-site sewage system shall be located within any identified floodplain area.
- H. Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- I. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- J. Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 110-080D(7), shall be stored at or above the regulatory flood elevation.
- K. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- L. Anchoring.
- 1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

- 2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

M. Floors, walls and ceilings.

- 1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- 2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
- 3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- 4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

N. Paints and adhesives.

- 1) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
- 2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
- 3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.

O. Electrical components.

- 1) Electrical distribution panels shall be at least three feet above the base flood elevation.
- 2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

P. Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

Q. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

R. Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401 to 405), as amended, and not limited to the following provisions, shall apply to the above and other sections and subsections of this Article XI, to the extent that they are more restrictive and/or supplement the requirements of this Article XI.

- 1) International Building Code (IBC) 2009 or the applicable successor edition thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
- 2) International Residential Building Code (IRC) 2009 or the applicable successor edition thereof: Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

### **§ 110-160. Floodplain Definitions.**

Words and phrases used in this Article which are defined below shall have the meanings set forth below. Words not defined below but defined in Article II shall have the meanings set forth in Article II. In the event of a conflict between the definitions in Article II and this Article, the definition in this Article shall prevail, but only for purposes of this Article; in all other cases the definition in Article II shall prevail. All other words and phrases shall be given their common, ordinary meaning, unless the context requires otherwise.

#### **ACCESSORY USE OR STRUCTURE**

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

#### **BASE FLOOD**

A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood").

#### **BASE FLOOD ELEVATION (BFE)**

The elevation shown on the Flood Insurance Rate Map (FIRM) for Zone AE that indicates the water surface elevation resulting from a flood that has a one-percent-or-greater chance of being equaled or exceeded in any given year.

#### **BASEMENT**

Any area of the building having its floor below ground level on all sides.

#### **BUILDING**

A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

#### **COMPLETELY DRY SPACE**

A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

#### DEVELOPMENT

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

#### ESSENTIALLY DRY SPACE

A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

#### EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

#### EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

#### FLOOD

A temporary inundation of normally dry land areas.

#### FLOOD INSURANCE RATE MAP

The official map on which the Federal Emergency Management Agency has delineated both the areas of special hazards and the risk premium zones applicable to the community.

#### FLOOD INSURANCE STUDY

The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

#### FLOODPLAIN AREA

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

#### FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

#### HISTORIC STRUCTURE

Any structure that is any of the following:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

#### LOWEST FLOOR

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this article.

#### MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, and recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

#### MANUFACTURED HOME PARK

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.



#### MINOR REPAIR

The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

#### NEW CONSTRUCTION

Structures for which the start of construction commenced on or after April 2, 2013, and includes any subsequent improvements to such structures. Any construction started after December 16, 1988, and before April 2, 2013, is subject to the Ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

#### NEW MANUFACTURED HOME PARK OR SUBDIVISION

Structures for which the start of construction commenced on or after April 2, 2013, and includes any subsequent improvements to such structures. Any construction started after December 16, 1988, and before April 2, 2013, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

#### PRACTICABLE ALTERNATIVE

An alternative that is available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes.

#### RECREATIONAL VEHICLE

A vehicle which is:

- A. Built on a single chassis;
- B. Not more than 400 square feet, measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

#### REGULATORY FLOOD ELEVATION

The base flood elevation (BFE) plus a freeboard safety factor of one and one-half feet.

#### REPETITIVE LOSS

Flood-related damages sustained by a structure on two separate occasions for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

#### SPECIAL FLOOD HAZARD AREA (SFHA)

An area in the floodplain subject to a one-percent-or-greater chance of flooding in any given year. It is shown on the FIRM as Zone A or AE.

#### START OF CONSTRUCTION

Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

#### STREAM

See "watercourse."

#### STRUCTURE

Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, sheds, manufactured homes, fences, walls, storage tanks, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

#### SUBSTANTIAL DAMAGE

Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

#### SUBSTANTIAL IMPROVEMENT

A. Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

B. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this article, must comply with all Ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific Ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from Ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

#### VIOLATION

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

#### WATERCOURSE

Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial, intermittent or seasonal flow.

## **ARTICLE XII: OPEN SPACE REQUIREMENTS**

### **DIVISION 120: OPEN SPACE REQUIREMENTS**

#### **§ 120-010. General Requirements.**

- A. All major residential subdivisions shall meet the open space requirements of this Chapter. The amount of required open space shall be determined in accordance with the site capacity calculations as set forth in this Chapter. All subdivision and/or land development plans shall contain or be supplemented by such material as required to establish the method by which the open space shall be perpetuated, maintained and administered. The approval of the final land development plan and other materials submitted therewith, shall be construed as a contract between the land owner(s) and the Township, and shall be noted on all applicable deeds.
- B. Required open space shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities.
- C. Land occupied by non-recreational buildings or structures, roads or road right-of-way, parking areas for non-recreational uses, land reserved for future parking areas for non-recreational uses, individual or community sanitary sewage treatment facilities, storm water detention or retention basins, or the yards or lots of dwelling units may not be counted towards meeting open space requirements.
- D. Delineation of Open Space. A method of physically delineating private lots from common open space areas shall be provided. Such method may include shrubbery, trees, markers or other method acceptable to the Municipality.

#### **§ 120-020. Ownership of Open Space.**

- A. Generally. Open space shall be permanently restricted from future subdivision and/or development. Under no circumstances shall any development be permitted on such lands at any time, except for the following:
  - 1) Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
  - 2) Recreation Area. An area designated for recreational use including, but not limited to tennis courts, basketball courts, swimming pools, dog parks, playfields, tot lots, community centers, museums and accessory day care centers. Such areas shall be maintained so as to avoid creating a hazard or nuisance and shall perpetuate the proposed use.
  - 3) Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Board.
  - 4) Golf courses may comprise up to half of the minimum required Open Space,

but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within any required open space; their parking and accessways may be paved and lighted.

- B. Legal documents providing for ownership and/or maintenance of open space shall be reviewed by the Township Solicitor and be subject to approval by the Board of Supervisors prior to the recording of the final plan.
- C. Ownership Options. The Municipality requires open space to be initially offered for dedication to the Municipality, which shall have the right of first refusal. The following methods may be used, either individually or in combination for the ownership of Open Space and common facilities. Common facilities 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 change in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:
  - 1) Fee Simple Dedication to the Municipality. The Municipality may, but shall not be required to, accept any portion of the open space and common facilities, provided that:
    - a. There are no acquisition costs to the Municipality; and
    - b. The Municipality agrees to, and has access to, maintain such open space and facilities.
  - 2) Condominium Association. Open Space and common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with the Pennsylvania Uniform Condominium Act of 1980<sup>72</sup>, as amended. All open land and common facilities shall be held as "common element."
  - 3) Homeowners' Association. Open Space and common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes (such as the Uniform Planned Community Act of 1977<sup>73</sup>). In addition, the following regulations shall be met:
    - a. The applicant shall provide the Municipality, for its approval, a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for the Open Space and common facilities.
    - b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.

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<sup>72</sup> Editor's Note: See 68 Pa.C.S.A. § 3101 et seq.

<sup>73</sup> Editor's Note: See 68 Pa.C.S.A. § 5101 et seq.

- c. Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title.
  - d. The association shall be responsible for maintenance and insurance of common facilities.
  - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member(s) falling delinquent in their dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
  - f. Written notice of any proposed ownership transfer, by the association, of open space or common facilities, to another entity as permitted herein, or the assumption of maintenance of such lands of such common facilities must be given to all members of the association and to the Municipality no less than thirty days prior to such event.
  - g. The association shall have adequate staff to administer, maintain, and operate such lands and common facilities.
- 4) Private Conservation Organization or the County. With permission of the Municipality, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to the County provided that:
- a. The conservation organization is acceptable to the Municipality and is a bona fide conservation organization intended to exist indefinitely;
  - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or Monroe County becomes unwilling or unable to continue carrying out its functions;
  - c. The Open Space is permanently restricted from future development through a conservation easement and the Municipality is given the ability to enforce these restrictions; and
  - d. A maintenance agreement acceptable to the Municipality is established between the owner and the organization or Monroe County.
- 5) Dedication of Easements to the Municipality. The Municipality may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the easements are held by the Municipality. In addition, the following regulations shall apply:
- a. There shall be no cost of acquisition to the Municipality.
  - b. Any such easements for public use shall be accessible to the residents of the Municipality.

- c. A satisfactory maintenance agreement shall be reached between the owner and the Municipality

D. Community Association Documents.

- 1) A Community Association Document, also known as a Homeowner's Association Document or a Condominium Association Document, shall be provided for all subdivision and land development applications which propose lands or facilities to be used or owned in common by all the residents of that subdivision or land development and not deeded to the Municipality.
- 2) The elements of the Community Association Document shall include, but shall not necessarily be limited to the following:
  - a. A description of all lands and facilities to be owned by the Community Association. This description shall include a map of the proposal highlighting the precise location of those lands and facilities.
  - b. Statements setting forth the powers, duties, and responsibilities of the Community Association, including the services to be provided.
  - c. A Declaration of Covenants, Conditions, and Restrictions, giving perpetual easement to the lands and facilities owned by the Community Association. The Declaration shall be a legal document that also provides for automatic Association membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the Association, including voting, elections, and meetings. Furthermore, it shall give power to the Association to own and maintain the common property and to make and enforce rules.
  - d. Statements prescribing the process by which the Community Association reach decisions and setting forth the authority to act.
  - e. Statements requiring each owner within the subdivision or land development to become a member of the Community Association.
  - f. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
  - g. Requirements for all owners to provide a pro rata share of the cost of the operations of the Community Association.
  - h. Provisions giving the Association the legal right to place a lien on the real property of any Member who fails to pay his/her dues. A process of collection and enforcement to obtain funds from owners who fail to comply.
  - i. A process for transition of control of the Community Association from the developer to the unit owners.
  - j. Statements describing how the lands and facilities of the

Community Association will be insured, including limit of liability.

- k. Provisions for the dissolution of the Community Association, in the event the Association should become unviable.

E. Maintenance. Unless otherwise agreed to by the Municipality, the cost and responsibility of maintaining common facilities and open space shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

- 1) The applicant shall, at the time of preliminary plan submission, provide a Plan for Maintenance of Open Space and Operation of Common Facilities in a form acceptable to the Municipality.
- 2) In the event that the organization established to maintain the open space and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Municipality may, but is not obligated to, assume responsibility for maintenance, in which case any assets and general funds of the organization may be forfeited and any permits may be revoked or suspended.
- 3) The Municipality may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Municipality in the office of the Prothonotary of the County.

**§ 120-030. Financial Guarantee for Open Space Maintenance.**

- A. The Municipality may require that the applicant establish and contribute to an Open Space Endowment Fund to cover the continuing costs of maintaining the land (involving activities such as mowing meadows, removing invasive vines, paying insurance premiums and local taxes, etc.), including costs associated with active or passive recreation facilities. Spending from this fund should be restricted to expenditure of interest so that the principal may be preserved. Assuming an annual average interest rate of two percent (2%), the amount designated for the Endowment Fund shall be at least fifty (50) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization acceptable to the Municipality, with such entity having experience in managing conservation land and recreational facilities, and subject to review by the Municipal Solicitor and approved by the Municipality. Such fund shall provide the Board of Supervisors with the optional authority to draw monies from the fund if necessary to take corrective measures or to complete basic maintenance that has not been satisfactorily completed. However, the Municipality is under no obligation to complete any work on the land if the funds are not withdrawn by the Municipality.
- B. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities (such as the Municipality, a



homeowners' association, or a land trust) at the time this designated entity is created.

**ARTICLE XIII: MISCELLANEOUS PERFORMANCE STANDARDS AND REGULATIONS**

**DIVISION 130: MISCELLANEOUS PERFORMANCE STANDARDS AND REGULATIONS**

**§ 130-010. Compliance**

- A. All uses and activities established after the effective date of this Chapter shall comply with the standards and regulations set forth in this Article.

**§ 130-020. Site Capacity Calculations.**

- A. Each site is unique, containing varying amounts of environmentally constrained natural resources that should be considered as development occurs. It is the purpose of this section to determine the appropriate intensity of use to which a site may be developed.
- B. The following site capacity calculations shall be submitted with all applications for subdivision or land development. Through these calculations, the maximum number of dwelling units, the maximum amount of impervious surfaces, and the required open space shall be determined.
- C. Base Site Area - Calculate the base site area. From the total site area subtract the following (the “Subtracted Land Areas”: 1) future rights-of-way of existing public or private roads; 2) existing above-ground utility rights-of-way; 3) land area occupied or proposed to be occupied by a non-residential use and its parking (this phrase does not apply to calculations for non-residential projects); 4) land which is not contiguous or which is separated from the parcel by a road or railroad; and 5) land shown on previous subdivision or land development plans as reserved for open space.

Total Site Area	=	acres
Minus Subtracted Land Areas		acres
Base Site Area	=	acres

- D. Land with Resource Restrictions and Resource Protection Land - Calculate the land with resource restrictions and the resource protection land. In the event that two or more resources overlap, only the resource with the highest open space ratio shall be used in the calculations.

Resource	Open Space Ratio	Acres of Land in Resources	Resource Protection Land(Acres x Open
100 yr Floodway	1.00	X	=
Wetlands	0.75	X	=
Slopes 25% or more	0.50	X	=

Resource	Open Space Ratio	Acres of Land in Resources	Resource Protection Land(Acres x Open
100 yr Floodplain (other than floodway)	0.50	X acres	= acres
Slopes 15-25%	0.10	X	=

**Land with Resource**

**Resource Protection Land**

- E. Adjusted Tract Area - Calculate the adjusted tract area.

Base Site Area:		acres
Minus Resource Protection Land:	-	acres
Equals the Adjusted Tract Area:	=	acres

For Non-Residential Uses, skip to Impervious Surfaces calculations below.

- F. Minimum Required Open Space - Determine the required open space for any residential subdivision or land development requiring open space. [NOTE: Applicants shall also provide recreation land where required by the SALDO.]

Adjusted Tract Area:	_____	acres
Multiply by Percent of Open Space Required by Use Category (where _____)	X	
Equals the Minimum Required Open Space:	_____	acres

- G. Number of Dwelling Units - Calculate the maximum permitted number of dwelling units. The applicant shall not round up unless the number of units calculated is less than one (1.00) in which case, the applicant may round up to permit one (1) dwelling unit.

Adjusted Tract Area:		acres
Multiply by Maximum Permitted Density: (Table 130-030.A or Article XIII) _____	X	
Maximum Number of Dwelling Units:	_____	units

- H. Impervious Surfaces - Calculate the maximum permitted area of impervious surfaces. The Maximum permitted Impervious Surface Ratio is found in the Table of Performance Standards set forth herein.<sup>74</sup>

Adjusted Tract Area:	_____	acres
Multiply by Max. Permitted Impervious Surface Ratio: (Table 130-030.A or Article _____)	_____	
Maximum Permitted Impervious Surfaces (Total Site):	_____	acres

- I. Site Capacity Summary

Adjusted Tract Area (E):	_____	acre
Maximum Permitted Number of Dwelling	_____	acre
Maximum Permitted Impervious Surfaces (H):	_____	acre
Minimum Required Open Space (F):	_____	acre

- J. Exception. As part of a minor subdivision (as defined by the Subdivision and Land Development Chapter<sup>75</sup>), one new residential lot may be subdivided from an existing lot without needing to comply with the adjusted tract area. This exception shall be a one-time exception for a single lot. Only one lot shall be exempt for each lot that existed on or before October 14, 2004. The new lot shall still need to comply with all requirements of this Chapter. This exemption shall only apply to a lot approved for one single family detached dwelling. For informational purposes only: for example, if a lot included 10 acres in a district with a one-acre minimum lot size requirement, then one new one-acre lot could be created. However, any future subdivision of the remaining nine acres would need to comply with the adjusted tract area.

### **§ 130-030. Performance Standards.**

- A. Table 130-030A<sup>76</sup> establishes the performance standards for the various zoning districts; where greater standards are established in other sections of this Chapter, the strictest standard shall govern. In order for the other standards set forth in the Use Regulations to apply, all requirements in that section must be met.
- B. **Zoning District and Type of Use:** For each Zoning District noted, the type of use is noted with further detail on the requirements for water and sewer services. The

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<sup>74</sup> Editor's Note: The Table of Performance Standards is included at the end of this Chapter.

<sup>75</sup> Editor's Note: See Ch. 170, Subdivision and Land Development.

<sup>76</sup> Editor's Note: The Table of Performance Standards is included at the end of this chapter.

Table must be used in conjunction with the Use Regulations in Article IV.

- C. Minimum Lot Area: The minimum area required for each type of use noted. Specific Use Regulations may provide a more restrictive criteria on a project basis (i.e. Minimum Site Area).
- D. Minimum Lot Width at the Minimum Building Setback Line: For each existing or new lot to be created, the figure provided in this column represents the minimum width as noted.
- E. Front, Side and Rear Yards: These columns, as defined in Article II, provide the minimum footage required for each yard as noted.
- F. Maximum Percent Building Coverage: This number shall be the maximum permitted amount of building coverage for a use or development on the entire tract of land.
- G. Maximum Percent Impervious Coverage: This number shall be the maximum permitted amount of impervious surfaces for a use or development on the entire tract of land.
- H. Open Space and Density: These criteria are covered elsewhere in this Article and/or Article IV.

**§ 130-040. Height.**

Except as provided in the definition of “height” in Division 20 or as specified otherwise in this Chapter for a particular use, the following maximum structure height shall apply in all zoning districts and zoning overlay districts.

- A. The maximum height of a structure that is accessory to a dwelling on a lot of less than five acres shall be two stories or 35 feet, whichever is more restrictive. The second story shall be limited to uninhabitable storage areas.
- B. A building height of up to a maximum of five stories shall only be allowed if the building is within 1.0 mile of the centerline of U.S. Route 209 and if approved as a Conditional Use, provided the applicant proves to the satisfaction of the Board of Supervisors that the following additional requirements will be met:
  - 1) The taller height shall be limited to the following uses, provided such use is allowed in the applicable district: timeshare units, age-restricted housing, motel/hotel, hospitals, primary and secondary schools and offices.
  - 2) The applicant shall provide expert testimony that there will be suitable access to the building for emergency apparatus and a suitable water supply and fire flow. The Board of Supervisors shall have the authority to deny the taller height if the applicant is not able to satisfactorily resolve emergency concerns, in the determination of the Board of Supervisors.

- 3) A building height of greater than 45 feet shall only be allowed if the building is set back a minimum of the height of the proposed structure from a lot line of an adjacent lot occupied by a single family dwelling and/or from a lot line of an adjacent lot in a residential district, or 1.5 times the height of the proposed structure from an existing residential structure in a residential district, whichever is more restrictive.
  - 4) For those portions of the proposed structure that are over 45 feet, based on the height of the structure as determined by the definition of 'height' provided in Division 20 herein, the applicant shall provide evidence on how the applicant has minimized the effect of the proposed structure on those portions of the building over 45 feet from other lots in residential districts that are within 1,000 feet of the proposed structure.
- C. The maximum height for any structure not addressed in Table 130-030.A above (such as principal buildings in residential districts) shall be 3.5 stories or forty-five (45') feet, whichever is more restrictive.
- D. Height Exceptions. The height of the structure shall be determined on the principal structure itself and not based on the height of any uninhabitable appurtenant structure to a principal structure such as a clock tower, bell tower, steeple on a place of worship, elevator shaft, skylight, chimney or any other appurtenance usually required to be and customarily placed above the roof level.

**§ 130-050. Optional Transfer of Development Rights ("TDR").**

- A. Purposes. In addition to serving the overall purposes of this Chapter, this Section is intended to:
- 1) Encourage the permanent preservation of important farmland, historic resources and environmentally sensitive areas; and
  - 2) Provide a voluntary method for landowners to be compensated by the free market to preserve their land.
- B. Applicability.
- 1) The transfer of development rights shall only officially occur at the time of final approval of a subdivision or land development plan. The approval of a preliminary plan shall be conditioned upon compliance with this section. As part of a preliminary and final plan application, the applicant shall present a draft conservation easement on the sending property and a written, signed and notarized agreement by the owner of the sending property acknowledging and agreeing to the application.
  - 2) The conservation easement shall be drafted so that it is binding if the receiving property is granted final plan approval. The conservation easement shall be recorded at the same time as, or prior to, the final plan for the receiving property. If a final plan is recorded in phases, then the conservation easement may be recorded in corresponding phases.

- 3) The form of the conservation easement shall be acceptable to the Board of Supervisors, based upon review by the Township Solicitor and Planning Commission. In the case of agricultural land, the standard language for an agricultural conservation easement used by the County Agricultural Land Preservation Board may be utilized.
- 4) A sending property shall be located within either the CON or RR Zoning Districts and shall contain a minimum lot area of 10 acres.
- 5) A receiving property shall be located within the R2, R3, C1, C2 or I Districts.
- 6) The owners of the sending and receiving properties shall voluntarily commit to participate in the transfer of development rights. Once such transfer of rights and conservation easement are established, it shall be binding upon all current and future owners of the sending property. The applicant for the receiving property is responsible to negotiate with, and pay compensation to, the owner of the sending property for the conservation easement. Such transaction shall occur privately, and the value shall be determined by the private market. The Township is under no obligation to pay the owner of the sending property.
- 7) Donations or intermediaries. The right to develop a sending property may be purchased by or donated to the Township, the County or an established incorporated nonprofit organization whose mission includes preservation of agricultural land or natural features. A permanent conservation easement shall be established on the sending property at the time of such purchase or donation.

C. Determination of Density.

- 1) Lot area excludes the right-of-way of any existing street and any existing utility easements. For each dwelling unit located on the lot, subtract one TDR from the total number calculated.
- 2) Number of TDRs available:
  - a. CON District: 0.1 TDR per acre of adjusted tract area.
  - b. RR District: 0.2 TDRs per acre of adjusted tract area.
- 3) If the agreement of sale of development rights would entail less than an entire tax parcel, the following additional regulations shall apply:
  - a. The portion of the tax parcel involved in the proposed sale of development rights shall be described by metes and bounds and must be shown on a plot plan.
  - b. Where a portion of the total available TDRs are sold from a lot or property, the future sale of additional TDRs from that property shall occur so that the land from which TDRs are sold is contiguous, to the greatest extent possible, to the lands from which TDRs were previously sold.

- c. Where a conservation easement would be established in phases over time, each phase shall be contiguous with a previous conservation easement unless the applicant proves to the satisfaction of the Board of Supervisors that there is a valid public purpose for the easement to not be contiguous.
- d. Where a portion of the total available TDRs from a lot or property are sold and the owner of the lot intends to develop the remaining portion of the lot, the remaining development potential shall be calculated on the basis of the number of dwelling units which could have been constructed on the lot or property without the sale of TDRs. When the applicant intends to develop the lands remaining after the sale of TDRs from a portion of a tax parcel, the number of TDRs sold shall be subtracted from the total development potential of the property to determine the number of dwelling units that could be built on the lands remaining, in accordance with the following example:

Available TDRs for entire tax parcel as calculated in this section	100 TDRs
TDRs proposed to be sold	50
Total remaining development potential which can be built on the tax parcel on the lands from which TDRs have not been sold (difference between total available and TDRs)	50 dwelling units

- 4) For informational purposes only: If, for example, the site capacity calculations (See § 130-050.C) determines that 10 new dwelling units would be allowed under current zoning on the sending property, and the sending property will be preserved by a conservation easement, then the right to develop 10 additional dwelling units may be transferred to the receiving property. The development of the receiving property shall still comply with all other requirements of this Chapter, except for the maximum density, which shall be regulated by this Section.
- 5) The receiving property shall be permitted to include the increased total number of dwelling units above the number that would otherwise be permitted, as approved by the Township based upon the site capacity calculations (§130-050.C); provided such dwelling unit types are permitted within the underlying zoning district. However, in no case shall the following lot areas and densities be exceeded:
  - a. If a lot does not have both regulatory agency-approved central water and central sewage service, the minimum lot area shall be one acre and the minimum lot width shall be 150 feet.



- b. If a lot has both regulatory agency-approved central water and central sewage services:
  - [1] For single-family detached dwellings in the R-2 District, the minimum lot area shall be 21,780 square feet and the minimum lot width shall be 100 feet.
  - [2] For single-family detached dwellings in the R-3 District, the minimum lot area shall be 10,000 square feet and the minimum lot width shall be 80 feet.
  - [3] For dwelling units other than single family detached, the area and dimensional requirements for that specific dwelling unit type in that zoning district shall apply.
- 6) For non-residential uses, the receiving property within the C1, C2 and I Districts shall be permitted to increase the maximum permitted impervious surface coverage by up to and not exceeding 10% where TDRs are transferred to the site in accordance with this Chapter. For every 3,000 square feet (or portion thereof) of impervious surface added beyond impervious coverage permitted within the underlying district, one transferable development right (TDR) must be acquired and transferred to the site.
- 7) Utilities. To receive a transfer of development rights, all lots of less than one acre on the receiving property shall be served by Township-approved central sanitary sewerage service and central water service.
- D. Once a conservation easement is established under a transfer of development rights, it shall be permanent, regardless of whether the receiving property is developed. The approval to develop the receiving property in a higher density shall be treated in the same manner as any other final subdivision or land development approval. The Board of Supervisors may extend time limits to complete the development of the receiving property in response to a written request.
- E. As part of a transfer of development rights, the development of the receiving property shall comply with all Township requirements except for provisions specifically modified by this section.
- F. Land from which TDRs have been sold may be used only for the following purposes:
  - 1) Agriculture – Production of crops, livestock, and livestock products, and field crops, fruits, vegetable crops.
  - 2) Nursery – Horticultural specialties, nursery stock, shrubs, trees, and flowers.

- 3) Accessory retail sales of agricultural products in accordance with the requirements of the Township Zoning Ordinance for Agricultural Retail use.
  - 4) Preservation of natural landscape by leaving land and resources undisturbed in forest, field, wetland, or other natural and unaltered state.
  - 5) Non-commercial outdoor public or homeowner association recreation areas.
- G. No zoning permits shall be issued for other uses; and no land development approval shall be granted for other uses.
  - H. The land from which development rights have been sold shall not be used to meet the open space requirements or minimum lot area or yard requirements for any other use nor may it be used for any other purpose that would support or serve development, including but not limited to fields for land application of sewage, sewage lagoons, storm water management facilities, utilities, or other uses.
  - I. Voluntary Use of Development Rights. Uses meeting the requirements of this Ordinance and other ordinances of the Township shall be approved up to the maximum density or impervious surface ratio as permitted for uses without the purchase of developmental rights. Nothing in this Ordinance shall require a landowner to purchase developmental rights.
  - J. Transfer and Recording. Development rights shall be recorded in the Monroe County Recorder of Deeds Office in accordance with their regulations. All transfers and recording shall be conveyed and recorded in full compliance with the MPC rules governing Transferable Development Rights.
  - K. Transferable development rights may be used only in the districts and for the uses designated by the Middle Smithfield Township Zoning Ordinance. Transferable development rights may not be used to increase the density of any use unless specifically permitted by the Middle Smithfield Township Zoning Ordinance.
  - L. No final plan approval shall be granted until the applicant has presented to the Township an agreement of sale or other documentation to demonstrate to the satisfaction of the Township that the necessary TDRs have been acquired to support the proposed development.

**§ 130-060. General Regulations.**

- A. Number of principal uses and principal structures per lot.
  - 1) C1, C2 and I Districts: A lot in a C1, C2 and/or I District may include more than one permitted principal use per lot and/or more than one permitted principal structure per lot, provided that all of the requirements set forth in the Table for Performance Standards [Table 130-030.A]<sup>77</sup> and General Regulations set forth herein are met for each principal use and for each

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<sup>77</sup> Editor's Note: The Table of Performance Standards is included at the end of this chapter.

principal structure.

- a. If differing dimensional requirements apply for different uses and/or structures on a lot, then the most restrictive requirement shall apply. For example, if Use 1 or Structure 1 requires a one-acre lot area and Use 2 or Structure 2 on the same lot requires a two-acre lot area, then the lot shall have a minimum lot area of two acres.
- b. Applicant shall submit a site plan proving that each proposed principal use and/or each proposed principal structure shall meet the requirements of this Chapter.
- c. All principal use(s) and/or principal structure(s) on the same lot shall be in common ownership, unless they are in condominium, timeshare or closely similar ownership.

2) R1, R2 and R3 Districts: A lot within a R1, R2 and/or R3 District may include more than one permitted principal dwelling unit per lot provided single family detached dwellings shall not exceed 3 dwelling units per lot and all of the area and dimensional requirements are met for each dwelling unit.

- a. If differing dimensional requirements apply on the lot, then the most restrictive requirement shall apply. For example, if permitted principal dwelling unit 1 requires a one-acre lot area and permitted principal dwelling unit 2 on the same lot requires a two acre lot area, then each permitted principal dwelling unit shall meet the more stringent requirement (ie in this case each would have a minimum lot area of two acres).
- b. The applicant shall submit a site plan that demonstrates that each permitted principal dwelling unit shall meet the requirements of this Chapter and would be amenable to Subdivision, that each dwelling unit could meet Township requirements to be on its own lot.
- c. All permitted principal dwelling units on the same lot shall be in common ownership.

B. Height Exceptions. See Section 130-040

C. Projections into Required Yards. There shall be no permitted projections into the minimum required front yard, rear yard and/or side yard setback area in any district, unless specifically allowed by a provision of this Ordinance.

D. Traffic Visibility Across Corners.

- 1) In all districts, no structure, fence, planting or other obstruction shall be maintained between a horizontal plane two feet above curb level and a horizontal plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the required front or side yard which is within a horizontal clear-sight triangle bounded by the two street lines (rights-of-way) and a straight line drawn between points on each such line 25 feet from the intersection of said lines or extension thereof. When

one or both streets which form the intersection are classified as collector or arterial highways, the clear-sight triangle bounded by the two street lines and a straight line drawn between points on such line shall be 50 feet along the collector and/or arterial highway from the intersection of said lines or extension thereof.

- 2) At each point where a private accessway intersects a public street or road, a clear-sight triangle with a leg of 10 feet back from the street line and 25 feet along the street line, measured from the point of intersection of the street line and the edge of the driveway shall be maintained within which vegetation and other visual obstructions shall be limited to a height of not more than two feet above the street grade.

E. Future Rights-of-Way.

- 1) Future right-of-way widths are established for those roads wherein the existing legal right-of-way is less than that indicated below for the particular class of road. The centerline of each future right-of-way shall be considered the same centerline as the existing right-of-way. The specific classification for each road is shown in Appendix C, "Functional Classification of Streets for Middle Smithfield Township," as amended, attached hereto and incorporated by reference herein this Section.<sup>78</sup>

- 2) Streets and their future rights-of-way width shall be based on the following:

Arterial	80'
Collector	60'
Local Streets	50'

- 3) Existing streets:

- a. In addition to the other setback requirements of this Ordinance, in no case shall a building be placed less than the following minimum setbacks from existing streets:

Arterial	40' from the center line
Collector	30' from the center line
Local Streets	25' from the center line

- b. Where a front, side or rear yard would abut an existing street, then such yard shall be measured from the minimum distance from the center line of the street right-of-way outlined below and not from the existing right-of-way line. For example, if the existing street

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<sup>78</sup> Editor's Note: Appendix C is included at the end of this Chapter.

right-of-way is 33' and is classified as a Collector Street, then the front yard shall begin its measurement from a point 30' from the centerline of the right-of-way and not the 16.5' which would be the edge of the existing right-of-way. The extra 13.5' is to be reserved for future right-of-way widening. And, if the front yard setback is 40', then the front yard setback line is 40' plus the 13.5' for the future right-of-way widening for a total front yard setback of 53.5' from the existing right-of-way line. The line parallel to the existing right-of-way line and allowing for the future expansion of the road right-of-way line is defined as the "street line" as used herein.

F. Front yard requirements.

- 1) Where a minimum depth of front yard is specified, an open space of at least the specified depth shall be provided between the street line(s) and the nearest point of any structure. Street lines are considered to be established by the future rights-of-way when so designated to avoid interference with anticipated future road widening and improvements (including, but not limited to, sidewalks and drainage facilities.

G. Corner Lots and Through Lots.

- 1) A lot with frontage on two or more streets shall meet the minimum required front yard setback for each street.
- 2) In case of a corner lot, a rear yard is required, but such yard may be any yard not fronting on a public street. A triangular lot shall have a rear yard in all cases.
- 3) In cases of through lots, one yard fronting on a street shall be designated on the plans as the rear yard and the yard fronting on the other street shall be designated on the plans as the front yard. A single lot shall not be required to have more than two front yards.

H. Accessory Structures and Uses.

- 1) Accessory structures and uses shall meet the minimum setback requirements as provided for in Table 130-030A<sup>79</sup> unless otherwise provided for in this Chapter.

**§ 130-070. No Guarantee of Lot Yield or Development.**

- A. This Chapter contains standards for lot sizes, building coverage, and density that should not be construed as guarantees that a certain number of dwelling units or amount of development can be accommodated on any individual site. Site

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<sup>79</sup> Editor's Note: The Table of Performance Standards is included at the end of this chapter.

constraints and other Chapter requirements as well as other Federal, State and Municipal regulations will all affect development potential.

**§ 130-080. Sewage Facilities Systems and Water Services.**

- A. The provisions of this Section shall apply under this Chapter, except if the exact same matter is regulated by the SALDO<sup>80</sup> for a particular application, then the provisions of the SALDO shall apply.
- B. Central water service. A use shall not be considered to be served by Township-approved central water service unless:
  - 1) All applicable requirements of state regulations and the SALDO are met;
  - 2) The applicant proves to the satisfaction of the Township that there will be an appropriate system in place to guarantee and properly fund the long-term operation and maintenance of the system by a qualified professional operator; and
  - 3) The applicant proves to the satisfaction of the Township, based upon review of the Township Engineer, that the system will include adequate supply, transmission capacity and pressure to serve the development.
- C. Central sewage service. A use shall not be considered to be served by Township-approved central sewage service unless:
  - 1) All applicable requirements of state regulations and the SALDO are met;
  - 2) The applicant proves to the satisfaction of the Township that there will be an appropriate system in place to guarantee and properly fund the long-term operation and maintenance of the system by a qualified professional operator; and
  - 3) The applicant proves to the satisfaction of the Township, based upon review of the Township Engineer, that the system will include adequate treatment capacity and conveyance capacity to serve the development.
- D. Connection to a larger system. Any nonpublic central water or central sewage system developed after the adoption of this Chapter shall be engineered and constructed in such a manner as to allow its efficient interconnection in the future into a larger regional system.
  - 1) Such a system shall include appropriate utility easements and/or rights-of-way within property controlled by the developer extending to the borders of the development to allow future interconnections at logical points.

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<sup>80</sup> Editor's Note: See Ch. 170, Subdivision and Land Development

- 2) At the time of subdivision or land development approval, the Board of Supervisors may request that agreements be established so that a central water or sewage system is dedicated to the Township after completion of the development or at such other time as is mutually agreed upon. A developer who dedicates a central water or sewage system to the Township shall retain the right to use or sell the capacity of the system that was funded by the developer. The Middle Smithfield Township Sewer Department may require an Applicant to post a bond to guarantee proper operation of a system for at least two years after dedication, or as otherwise provided under State law. Nothing contained herein is intended to require the Township to accept any such system, and the acceptance of such a system shall be within the sole discretion of the Township.

E. On-lot sewage systems.

- 1) Purpose. To ensure that a suitable location is available for a replacement system if the original sewage system should malfunction.
- 2) This Section shall only apply to a lot that is officially submitted for subdivision or land development approval after the adoption of this Chapter.
- 3) Each lot shall include both a primary and a reserve sewage system location. Both locations shall be determined by the Township Sewage Enforcement Officer to meet Pennsylvania Department of Environmental Protection regulations for a sewage system location prior to approval of the final subdivision or land development plan.

F. Reserve sewage system.

- 1) The requirement for a reserve sewage system location shall not apply to the following:
  - a. A lot of over 10 acres;
  - b. The simple merger of two or more existing lots or an adjustment to lot lines of an existing lot;
  - c. A vacant lot that includes a permanent deed restriction or conservation easement prohibiting any construction of buildings on the lot;
  - d. Lots within a subdivision or land development that will abut a complete capped sewage system constructed by the developer, the design of which has been approved by the Township; or
  - e. An approved spray irrigation or drip irrigation system.

- 2) The reserve sewage system location shall be kept clear of buildings and parking and shall be shown on any subsequent applications for new or expanded buildings or parking. The Township may require that the location be recorded on the deed.
- G. Well and sewer system locations. Every plan for a subdivision or land development for a new principal building that will be served by a well and/or on-lot sewer system shall designate the proposed well and primary and alternate sewer system locations.
- 1) Such plan shall show that the proposed locations will meet the minimum isolation distances established by PA DEP regulations between a well and sewage systems on the subject lot and all adjacent lots.
  - 2) A plan may show the outer extent of potential well locations, instead of one exact location, provided all of the potential area would still meet the isolation distance.
  - 3) If the well or sewage system location is proposed to be changed from the location shown on the submitted plan, then a site plan showing the revised location shall be submitted for approval by the Zoning Officer and Sewage Enforcement Officer prior to issuance of a zoning permit.
  - 4) It is requested that well sites be placed in the front yard, thereby allowing sewage systems to be placed in the rear yard. The intent is to minimize the visibility of any septic mound systems. In addition, if wells are located in consistent locations within a subdivision, it will make it easier for adjacent property owners to meet minimum separation distances between sewer systems and wells.
- H. Expansion of sewage use. Any proposed increase in the number of dwelling units of a residential use and/or an expansion and/or change of a residential or nonresidential use shall be referred by the Zoning Officer to the Sewage Enforcement Officer for a determination as to whether a modification, expansion and/or replacement of the sewage system will be required to handle the proposed flow.

#### **§130-090. Buffer yards and landscaping.**

- A. Buffer yards with plant screening complying with the following standards shall be required under the following situations, unless a more restrictive requirement is established by another requirement of this Chapter:
- 1) A minimum of forty-foot-wide buffer yard with plant screening shall be required along the rear and side lines of any lot used principally for nonresidential purposes that is contiguous to a lot occupied by an existing principal dwelling or an undeveloped residentially zoned lot. The plant screening shall primarily use evergreen plants. If existing healthy trees with



a trunk diameter of six inches or greater (measured 4.5 feet above the ground level) exist within the buffer yard, they shall be preserved to the maximum extent feasible. The Zoning Officer may certify that preserving existing mature trees and shrubs within the buffer yard will meet the same purposes as new plant screening. In such case, part or all of the new plant screening may be waived, in writing by the Zoning Officer. The requirements of this section are modified in the following circumstances:

- a. If a principal business use will include areas used for manufacturing or will have a loading dock that will be serviced by tractor-trailer trucks or refrigerated trucks, then the minimum buffer yard between such manufacturing area and/or loading dock and a lot line of an existing principal dwelling shall be increased to 60 feet.
  - b. A buffer yard shall not be required between a dwelling and a principal business use on the same lot.
- 2) A required yard may overlap a required buffer yard, provided the requirement for each is met. The buffer yard shall be measured from the district boundary line, street right-of-way line or lot line, whichever is applicable. Required plantings shall not be placed within the right-of-way, except for deciduous canopy trees that may be approved by the Township.
- 3) The buffer yard shall be a landscaped area free of structures, dumpsters, commercial or industrial storage or display, signs, manufacturing or processing activity, materials storage, loading and unloading areas, or vehicle parking or display.
- 4) Fence. Any fence in a buffer yard shall be placed on the inside (nonresidential side) of any required plant screening.
- 5) A well or septic system may be placed within a buffer yard, provided the landscaping and tree preservation provisions are still met.
- 6) Each planting screen shall meet the following requirements:
  - a. Plant materials needed to form the visual screen shall have a minimum height, when planted, of four feet. In addition, an average of one deciduous shade tree, with a minimum trunk diameter of two inches measured six inches above the ground level, shall be placed for each 40 feet of length of the buffer yard. The shade trees may be clustered or spaced unevenly.
  - b. Plants needed to form the visual screen shall be of such species, spacing and size as can reasonably be expected to produce within three years a mostly solid year-round visual screen at least six feet in height. The use of native species is encouraged.
  - c. The plant screen shall be placed so that at maturity the plants will not obstruct a street or sidewalk.
  - d. The plant visual screen shall extend the full length of the lot line, except for Township-approved points of approximately

perpendicular vehicle or pedestrian ingress and egress to the lot; locations necessary to comply with safe sight distance requirements where the plantings cannot feasibly be moved further back; and locations needed to meet other specific state, Township and utility requirements, such as stormwater swales.

- e. Evergreen trees should be planted at diagonal offsets so that there is room for future growth of the trees.

7) Buffer yard plans.

- a. Prior to the issuance of a permit under this Chapter where a buffer yard would be required, and on any required subdivision or land development plan, the applicant shall submit plans showing:
  - [1] The location and arrangement of each buffer yard;
  - [2] The placement, general selection of species and initial size of all plant materials; and
  - [3] The placement, size, materials and type of all fences to be placed in such buffer yard.
- b. If more than 20 evergreen plants are proposed, no more than 50% shall be of one species.

- B. Any part of a commercial, industrial, institutional or apartment lot which is not used for structures, loading areas, parking spaces and aisles, sidewalks, designated storage areas and other approved uses, and which is not maintained in existing natural trees and natural vegetation, shall be maintained with a vegetative ground cover and shall be kept free of debris.
- C. Street trees. See the provisions in the Subdivision and Land Development Chapter. A tree required under the Zoning Chapter may also be used to meet a requirement under the Subdivision and Land Development Chapter if the tree would meet the requirements for both ordinances.
- D. Parking lot landscaping. See the provisions in the Subdivision and Land Development Chapter.
- E. Review and approval. Where landscaping is required by this Chapter, the applicant shall submit the landscaping information on a site plan or an accompanying plan that shows proposed initial sizes, locations and species of plantings.

# Exhibit B

**Township of Middle Smithfield****Table of Use Regulations Within Zoning Districts**

Unless specifically stated otherwise in this chapter, any land or structure shall only be used or occupied for a use specifically listed in the following table as allowed in the zoning district where the land or structure is located. Such uses shall only be allowed if the use complies with all other requirements of this chapter. In the following table, "P" shall mean the use is permitted by right in that zoning district, "C" shall mean the use is a conditional use in that zoning district, "SE" shall mean the use is a special exception use in that district, and "N" shall mean the use is not permitted in that zoning district.

<b>Zoning District</b>									
<b>Use Category</b>	<b>Use</b>	<b>CON</b>	<b>RR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>C1</b>	<b>C2</b>	<b>I</b>
<b>A</b>	<b>Agricultural Uses</b>								
A1	Agriculture, General	P	P	P	C	C	P	P	P
A2	Agriculture, Intensive	P	C	N	N	N	P	P	N
A3	Forestry	P	P	P	P	P	P	P	P
A4	Kennel, State-licensed	P	P	N	N	N	P	P	N
A5	Kennel, Private, non-state-licensed	P	C	N	N	N	P	P	N
A6	Nursery	P	P	P	N	N	P	N	N
A7	Riding Academy	P	P	P	P	C	N	N	N
A8	Stable	P	P	P	P	C	N	N	N
<b>B</b>	<b>Residential Uses</b>								
B1	Conservation Development	C	C	C	C	N	N	N	N
B2	Dwelling, Apartment Complex	N	N	N	N	P	P	P	N
B3	Dwelling, Boardinghouse	N	N	N	N	N	N	C	N
B4	Dwelling, Dormitory	N	N	N	N	N	N	C	N
B5	Dwelling, Duplex	N	N	N	P	P	N	N	N
B6	Dwelling, Group Home	P	P	P	P	P	P	P	N
B7	Dwelling, Mobile / Manufactured Home <sup>1</sup>	P	P	P	P	P	P	P	N
B8	Dwelling, Residential Conversion	N	N	N	N	C	P	P	N
B9	Dwelling, Single-family Detached	P	P	P	P	P	P	P	N
B10	Dwelling, Townhouse or Rowhouse	N	N	N	P	P	N	N	N
B11	Dwelling, Twin Dwelling Unit	N	N	N	P	P	N	N	N
B12	Homeless Shelter, permanent	N	N	N	N	C	N	C	N
B13	Manufactured Home Park	N	N	N	C	C	N	N	N
B14	Senior Active Adult development	N	C	C	P	P	N	C	N

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Zoning District									
Use Category	Use	CON	RR	R1	R2	R3	C1	C2	I
<b>C</b>	<b>Institutional and Recreational Uses</b>								
C1	Bed-and-breakfast	P	P	P	P	P	P	P	N
C2	Cemetery	P	P	P	P	P	P	P	P
C3	Community Center	N	N	P	P	P	N	C	N
C4	Day-care Center, state-licensed facilities	N	N	P	P	P	P	P	N
C5	Detention Facility	N	N	N	N	N	C	N	C
C6	Gaming/Gambling Establishment	N	N	N	N	N	C	C	C
C7	Golf Course	P	P	P	P	P	C	C	N
C8	Library or Museum	C	C	C	C	C	P	P	P
C9	Life-care Facility	P	P	P	P	P	C	C	N
C10	Medical Facilities	N	N	N	N	C	C	C	P
C11	Municipal Service Facility	P	P	P	P	P	P	P	P
C12	Nursing Home, Personal Care Home or Assisted Living Center	N	N	C	C	C	C	C	N
C13	Private Club	N	N	N	C	C	C	C	N
C14	Campground	C	C	C	C	C	C	C	N
C15	Recreational Facility	P	P	P	P	P	P	P	P
C16	Resort Complex/Commercial resort development	N	N	N	N	C	C	C	C
C17	School	P	P	P	P	P	P	P	P
C18	Shooting Range	C	C	N	N	N	N	N	C
C19	Ski Area	C	N	N	N	C	C	C	C
C20	Theater	C	C	N	N	N	P	P	P
C21	Treatment Center	N	N	N	N	N	C	C	C
C22	Worship, Place of, and related uses	P	P	P	P	P	P	P	P
<b>D</b>	<b>Office Uses</b>								
D1	Office	N	N	N	C	C	P	P	P
D2	Business Park	N	N	N	N	C	P	P	P
D3	Data Center	N	N	N	N	N	N	C	C
<b>E</b>	<b>Utility, Service and Transportation Uses</b>								
E1	Airport	N	N	N	N	N	N	N	C
E2	Tower-based wireless communication facilities	C	C	N	N	N	C	C	C
E2.a	Small Wireless Communications Facilities	P	P	P	P	P	P	P	P
E2.b	Non-Tower Wireless Communications Facilities	P	P	P	P	P	P	P	P
E3	Emergency Service Facilities	P	P	P	P	P	P	P	P
E4	Essential Services/Utilities	P	P	P	P	P	P	P	P
E5	Helipad or Heliport	N	N	N	N	N	C	C	C
E6	Principal Solar Energy System	N	N	N	N	N	N	N	C

<b>Zoning District</b>									
<b>Use Category</b>	<b>Use</b>	<b>CON</b>	<b>RR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>C1</b>	<b>C2</b>	<b>I</b>
<b>F</b>	<b>Retail and Consumer Service Uses</b>								
F1	Adult Use	N	N	N	N	N	N	N	C
F2	Convenience Store and/or Gas Station	N	N	N	N	N	P	C	P
F3	Drive-in Business	N	N	N	N	N	P	P	P
F4	Funeral Home	N	N	N	N	N	P	P	P
F5	Hotel/Motel/Inn	N	N	N	N	N	P	C	P
F6	Health Spa	N	N	N	N	P	P	P	P
F7	Nightclub/Bar/Tavern	N	N	N	N	N	P	C	P
F8	Open-air Business/Flea Market	N	N	N	N	N	C	C	P
F9	Race Track	N	N	N	N	N	C	N	C
F10	Restaurant	N	N	N	N	N	P	P	P
F11	Restaurant, Drive-in	N	N	N	N	N	P	P	P
F12	Service Business	N	N	N	N	N	P	P	P
F13	Shopping Center	N	N	N	N	N	P	C	N
F14	Store, Large retail	N	N	N	N	N	P	C	N
F15	Store, Retail	N	N	N	N	N	P	P	N
F16	Vehicle Parking Lot or Garage	N	N	N	N	N	P	P	P
F17	Vehicle Sales	N	N	N	N	N	P	N	P
F18	Vehicle Service and Repair Facility	N	N	N	N	N	P	N	P
F19	Veterinarian Office or Clinic	P	P	N	N	P	P	P	N
F20	Self-Storage Facilities	N	N	N	N	N	C	C	P
F21	Medical Marijuana Dispensary	N	N	N	N	N	C	C	N
<b>G</b>	<b>Industrial Uses</b>								
G1	Building Material Sales	N	N	N	N	N	P	C	P
G2	Bus Maintenance/Storage Yard	N	N	N	N	N	C	N	P
G3	Extractive Operation, Sand and Gravel Pit, Asphalt/Concrete Facility	N	N	N	N	N	N	N	C
G4	Fuel Storage and Distribution	N	N	N	N	N	N	N	P
G5	Junkyard	N	N	N	N	N	N	N	C
G6	Landfill, Sanitary	N	N	N	N	N	N	N	C
G7	Manufacturing	N	N	N	N	N	C	N	P
G8	Manufacturing, Light	N	N	N	N	N	P	C	P
G9	Resource Recovery Facility	N	N	N	N	N	C	N	C
G10	Slaughterhouse	N	N	N	N	N	N	N	C
G11.a	Logistics Center, Large	N	N	N	N	N	N	N	C
G11.b	Logistics Center, Small	N	N	N	N	N	N	C	C
	Reserved								
G13	Medical Marijuana Grower/Processor	N	C	N	N	N	C	C	N
<b>H</b>	<b>Accessory Uses and Structures</b>								
H1	Accessory Structures	P	P	P	P	P	P	P	P
H2	Accessory Uses	P	P	P	P	P	P	P	P

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Zoning District									
Use Category	Use	CON	RR	R1	R2	R3	C1	C2	I
H3	Agriculture, Retail	P	P	P	N	N	P	P	N
H4	Bus Shelter	P	P	P	P	P	P	P	P
H5	Day Care Center, exempt premises	P	P	P	P	P	P	P	P
H6	Dwelling, Accessory Apartment	P	P	P	P	P	P	P	P
H7	Homeless Shelter, Temporary	P	P	P	P	P	P	P	N
H8a	Low-impact Home-Based Business	P	P	P	P	P	P	P	P
H8b	No-Impact Home-Based Business	P	P	P	P	P	P	P	P
H9	Outdoor Storage	P	P	P	P	P	P	P	P
H10	Pets, Keeping of (animals, domestic and animals, exotic)	P	P	P	P	P	P	P	P
H11	Recycling Collection Center	P	P	P	P	P	P	P	P
H12	Accessory Solar Energy System	P	P	P	P	P	P	P	P
H13	Stable, Private	P	P	P	P	P	P	P	P
H14	Structure, Temporary	P	P	P	P	P	P	P	P
H15	Use, Temporary	P	P	P	P	P	P	P	P
H16	Wind Energy Systems	P	P	P	P	P	P	P	P
H17	Food Truck/Food Cart <sup>2</sup>	N	N	N	N	N	P	P	N
§044-090	Short Term Rental Use of Residential Dwelling Units	P	P	P	P	P	P	P	P

NOTES:

<sup>1</sup> Any newly placed mobile/manufactured home shall meet the 1974 or later manufactured housing construction specifications of the United States Department of Housing and Urban Development. A mobile/manufactured home shall meet the same regulations as a single family detached dwelling, except for additional provisions established and required for Use B7 and except within the 100-year floodplain.

<sup>2</sup>Other than as allowed as part of a customarily accessory part of a temporary “special event” such as a festival or a place of worship for up to 7 days per year, or that is operating as customarily accessory to an approved Resort Complex, or that is at a location for less than 10 minutes per day.