

**TOWNSHIP OF EAST MARLBOROUGH  
Chester County, Pennsylvania**

**ZONING ORDINANCE OF 2015  
AS MODIFIED BY AMENDMENTS THROUGH NOVEMBER 2015**

**Adopted April 6, 2015 as ORDINANCE 2015-03  
And thereafter amended  
November 9, 2015 by ORDINANCE 2015-04**

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**EAST MARLBOROUGH TOWNSHIP**  
**ZONING ORDINANCE OF 2015**

**AS MODIFIED BY AMENDMENTS THROUGH NOVEMBER 2015**

AN ORDINANCE of the Township of East Marlborough, Chester County, Pennsylvania to amend, revise and consolidate the East Marlborough Township Zoning Ordinance of 1992, as Modified by Amendments through January 2015, and all amendments, maps, and supplements thereto.

The Board of Supervisors of the Township of East Marlborough, Chester County, does hereby enact and ordain that the East Marlborough Township Zoning Ordinance of 1992, as Modified by Amendments through January 2015, and all amendments, maps, and supplements thereto is hereby further amended to be and read as follows:

**ARTICLE I**  
**GENERAL PROVISIONS**

**SECTION 101. SHORT TITLE AND EFFECTIVE DATE**

- A. This Ordinance shall be known and may be cited as the “East Marlborough Township Zoning Ordinance of 2015.”
- B. This Ordinance shall become effective five (5) days after its enactment.

**SECTION 102. PURPOSES**

- A. This Ordinance is enacted under and pursuant to the Municipalities Planning Code, Act 247 of 1968, as amended, for the following purposes:
  - 1. To promote, protect, and facilitate the public health, safety, and general welfare of the inhabitants of the Township of East Marlborough by coordinated and practical community development.
  - 2. To provide for proper density of population and to assure adequate light and air;

3. To facilitate the adequate provision of transportation, police protection, water, sewerage, schools, parks, and public grounds;
  4. To prevent overcrowding of land, blight, danger, and congestion in travel and transportation;
  5. To prevent loss of health, life, or property from fire, flood, panic, or other danger; and
  6. To implement the Unionville Area Regional Comprehensive Plan, specifically, the sharing of land uses across the Region covered by that Plan.
- B. The regulations and districts contained herein represent reasonable consideration as to the character of the district and their peculiar suitability for particular uses of land and have been made with a view to enhancing the existing environment and assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on adjacent properties, with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

### **SECTION 103. COMMUNITY DEVELOPMENT OBJECTIVES**

- A. East Marlborough Township located immediately to the north of the Borough of Kennett Square and approximately nine miles southwest of West Chester, the County Seat, is the site of the historic Village of Unionville and historic Village of Marlborough, as well as a substantial portion of beautiful Longwood Gardens. Among the land uses contained in the Township are a variety of residential subdivisions, the village environment of Unionville, and rolling farmland.
- B. The development objectives of the Township, set forth in proper context and detail in its Comprehensive Plan, are summarized as follows:
1. To foster development within the Township in an orderly manner, to achieve an overall environment of quality, harmony, variety, and interest by:
    - a. defining industrial and commercial areas,
    - b. minimizing conflict between residential and other land uses, and

- c. encouraging development patterns which will minimize future operating and capital expenditures.
2. To encourage the best and most efficient use of land by:
  - a. discouraging the use of land for building or development in Flood Hazard Areas and areas critical to the renewal of unpolluted groundwater resources,
  - b. encouraging the development of commercial, industrial, institutional, and related uses in clustered patterns rather than in strips, thus minimizing adverse impacts and traffic hazards, and
  - c. encouraging new and innovative planning and site design for residential subdivision, maximizing opportunities for a range of choices of housing types.
3. To encourage the retention of agricultural and open space uses and the preservation of historic buildings and areas by:
  - a. encouraging the retention of agricultural lands by farmers, and discouraging development of farmland;
  - b. protecting unique, scenic, and environmentally sensitive areas within a Development, such as stream valleys, wooded areas, and groundwater recharge areas; protecting the historical flavor and encouraging the restoration of buildings of historic interest in the Villages of Unionville and Marlborough; and locating, registering, and preserving historic buildings and sites in the Township.

## **SECTION 104. INTERPRETATION**

In the interpretation and application of the provisions of this Ordinance, the said provisions shall be held to be the minimum requirements for the promotion and protection of the public health, welfare, and safety. The more restrictive provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Ordinance, the provisions of such statute, ordinance, or regulation shall be controlling.

**SECTION 105. VALIDITY AND SEVERABILITY**

If any article, section, subsection, paragraph, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or of any other part.

**SECTION 106. REPEAL PROVISIONS**

All existing ordinances or parts of ordinances which are contrary to the provisions of this Ordinance are hereby repealed, including the Historic District Zoning Ordinance of East Marlborough Township.

**SECTION 107. USES NOT PROVIDED FOR**

Some land uses which are not otherwise addressed by this Ordinance are shared elsewhere in the Region in West Marlborough Township and/or Newlin Township, thereby implementing the Unionville Area Regional Comprehensive Plan.

## **ARTICLE II DEFINITIONS**

### **SECTION 201. GENERAL**

- A. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meaning therein indicated.
- B. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural, and the plural the singular.
- C. The word “shall” or “must” is always mandatory; the word “may” is permissive. The word “building” includes “Structure” and shall be construed as if followed by the phrase “or part thereof.” The word “person” includes “individual,” “profit or non-profit organization,” “partnership,” “company,” “unincorporated association,” “corporation,” or other similar entities. When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

### **SECTION 202. DEFINITIONS OF TERMS**

#### **ACCESSORY BUILDING or ACCESSORY STRUCTURE**

A Building or Structure subordinate to the main building, the use of which is customarily incidental to and located in the same Lot occupied by the principal Building.

#### **ACCESSORY DWELLING UNIT**

A self-contained Dwelling Unit that results from either the conversion of an existing building to a Dwelling Unit, the creation of a separate unit within part of an existing Single Family Dwelling Unit, or the construction of a new unit. The unit shall be complete with food preparation and bathroom facilities, shall have direct access to the outdoors, shall be accessory to the existing use on the property, and shall have a permanent foundation. Either the Accessory Dwelling Unit or the principal use shall be occupied by the owner of the property.

#### **ACCESSORY USE**

A use customarily incidental and subordinate to the principal use of the same Lot.

**ACREAGE, ADJUSTED, ADJUSTED ACRE OR ADJUSTED LOT AREA**

The total area of a tract or Lot, less (i) areas within existing road rights of way, (ii) 75% of Wetlands and Floodplains; (iii) 50% of steep Slopes of 20% or more, (iv) 75% of the area within the drip line of any Specimen Tree, and (v) 50% of the outer drip line area of a Stand of Trees (collectively "Adjustment Factors"). For purposes of this definition, Nursery stock shall not be included in a Stand of Trees. Where portions of a Lot are subject to more than one Adjustment Factor, only the more strict reduction factor shall apply to such portions. **[Amended by Ord. No. 2015-04]**

**ACTIVE RECREATION AREAS**

Common Open Space (such as defined in this Section) that is designed and developed for active recreation activities such as ball fields, exercise trails, tennis courts, playgrounds, walking/jogging/biking trails, swimming, and other out-of-door pursuits.

**AGRICULTURAL OPERATIONS**

An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The terms include an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

**AGRICULTURE**

The cultivation of the soil and the raising and harvesting of crops of the soil, Livestock and Livestock products, including but not limited to Nursery, Horticulture, Forestry, Animal Husbandry, vineyards, beekeeping, and mushroom culture, and the processing or preparation of such products on the property on which they are grown or raised into products for human consumption, such as baked goods, wine and cheese, whether for private or commercial purposes, in each such case, in accordance with the provisions of §1804 of this Ordinance, "Farm Regulations."

**ALLUVIAL SOILS**

Soils consisting of or formed from material such as gravel, sand, silt, or clay deposited by flowing water and showing little or no modification of the original material by soil-forming processes.

**ALTERATION**

As applied to a Structure, a change, rearrangement, addition to, or diminution of the structural parts of existing facilities thereof.

**ALTERNATIVE ENERGY**

A source of energy generated from solar, water, wind, geothermal or similar sources, which is capable of providing energy and utility provisions to a permitted use.

**ALTERNATIVE ENERGY SYSTEM**

A private system capable of converting solar, water and/or wind into a viable energy source and utility provisions for a permitted use. Such facilities include and are limited to solar panels, wind turbines, geothermal systems.

**ANIMAL HOSPITAL FOR LARGE ANIMALS**

A facility maintained by and for the use of one or more licensed veterinarians in the diagnosis, treatment and/or prevention of animal diseases or injuries wherein the animals are limited to Livestock or other large animals, as distinct from a Veterinary Clinic, which is normally maintained as a facility treating household or domestic pets.

**ANIMAL HUSBANDRY**

The care, tending, feeding, breeding and raising of Livestock for use or consumption by humans.

**ANTENNA ARRAY**

One or more rods, panels, discs, or similar devices used for the transmission or reception of electromagnetic signals and/or communications, which may include omnidirectional antenna (rod), directional antenna (panel or sector), and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

**AP 1-2 ACRE LOT**

A Lot in the AP Agricultural Preservation District having a Lot Area of not less than one (1) acre and not more than two (2) acres.

**AP 10-20 ACRE LOT**

A Lot in the AP Agricultural Preservation District having a Lot Area of not less than ten (10) acres and not more than twenty (20) acres.

**APPLICANT**

A Landowner or Developer or his authorized agent, as hereinafter defined, who has filed an application for Development, including his heirs, successors, and assigns.

**ASSISTED LIVING FACILITY**

A facility that provides a place to live and medical care for individuals (such as the senior citizens or persons with disabilities) who need help with daily activities.

**ATTACHMENT STRUCTURE**

A building which is suitable for the support of a Wireless Communication Facility, but which has been designed and constructed for another purpose. Such existing Structures

shall include, but not be limited to, utility poles, Signs, water towers, and municipally owned Structures.

#### BASEMENT

A level partly underground but having at least one-half of its height (measured from finished floor to finished ceiling) above the average grade of the adjoining ground. A Basement shall be counted as a Story for purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than four (4) feet or used for business or Dwelling purposes, other than a game or recreation room or garage. When used in the context of the Flood Hazard District Regulations set forth in Article XIII of this Ordinance, the term “Basement” means any area of a building having its floor below ground level on all sides.

#### BASE ZONING

The classification of all land within East Marlborough Township, Chester County, Pennsylvania, in accordance with the “Zoning Map of East Marlborough Township”.

#### BED AND BREAKFAST HOME

A private owner-operated Dwelling providing not more than three (3) guest facilities for overnight lodging and breakfast.

#### BED AND BREAKFAST INN

A small commercial enterprise providing not more than ten (10) guest facilities for overnight lodging and breakfast. Facilities having more than ten (10) guest rooms are deemed Hotels or Motels and are regulated as such.

#### BOARDING, LODGING, OR ROOMING HOUSE

A private Dwelling in which at least two (2) but not more than six (6) rooms are offered for lodging for compensation, whether or not table board is furnished to lodgers, and in which no transient guests (i.e., guests staying at the Dwelling for a period of less than thirty (30) consecutive days) are accommodated and no public Restaurant is maintained.

#### BOTANICAL GARDEN

An establishment primarily used for horticultural and arboretorial display, education, research and/or conservation, potentially including features such as fountains, sculptures, trellises, patios, and trails, as well as related facilities such as conservatories, greenhouses, plant maintenance and propagation facilities, research facilities, ticketing facilities, a visitors center, office and administrative space, and related maintenance facilities. **[Amended by Ord. No. 2015-04]**

#### BUFFER

A strip of land, a mound, or a berm, planted and maintained in shrubs, bushes, trees, and where grass or other ground cover material is also provided. A wall, fence, or similar architectural screen may be located within the Buffer, when approved by the

Board of Supervisors. No Structure, stormwater management facility, including grading for such, or Impervious Cover shall be located in the Buffer. Regrading within the Buffer shall not be permitted, if it significantly lowers the existing elevation of the Buffer area.

#### BUILDING

Any combination of materials which is erected on the ground and permanently affixed thereto, designed, intended, or arranged for the housing, sheltering, enclosure, or structural support of persons, animals, or property of any kind.

#### BUILDING LINE

The line parallel to the Street Line at a distance therefrom equal to the depth of the Front Yard required for the district in which the Lot is located, provided that: a) in the case of a Lot where the side lines are not parallel, the Building Line shall be at that point where actual Lot Width first coincides with the required Lot Width but in no case closer to the Street than the required Front Yard; and b) in the case of an interior Lot not fronting on a Street for its full width, the Building Line shall be measured from the property line nearest to the street of access instead of being measured from the Street right-of-way line.

#### CELLAR

A level partly below the finished grade, having one-half or more of its height (measured from finished floor to finished ceiling) below the average level of the adjoining ground. A Cellar shall not be considered a Story in determining the permissible number of stories.

#### CENTRAL SEWAGE COLLECTOR AND TREATMENT SYSTEM

See PUBLIC SEWER SYSTEM

#### CENTRAL WATER SUPPLY SYSTEM

See PUBLIC WATER SYSTEM

#### CHILD DAY CARE CENTER

A facility in which care is provided for seven (7) or more children under the age of sixteen (16) years at any time where the child care areas are not being used as a Family residence.

#### CHILD DAY CARE FACILITY

Any institution or place which is maintained in whole or in part for the care of children under the age of sixteen (16) years, during any part of a day, with or without stated educational purposes. This definition shall include "Child Day Care Center" and "Day Care Home", but shall not apply to public, private, or parochial School systems.

**CHURCH**

A Building or group of Buildings utilized primarily for religious services or similar meetings. The term "Church" shall also include temple, synagogue, mosque, and other similar places of worship and rectories, convents, monasteries and church-related educational facilities and/or Child Day Care Facilities. A Church may be used occasionally as a community or civic meeting place, for receptions for individuals attending weddings, funerals, and similar religious services held contemporaneously at the Church, and for activities or functions sponsored or organized by leaders or members of the Church community that: promote the Church's mission; offer opportunities for fellowship among its members and their families and friends; or support the Church's activities. Except in connection with one of the uses described in the immediately preceding sentence, a Church may not be rented or leased for social activities or functions.

**CLEAN FILL**

Earth or gravel or any combination thereof used in construction or earthmoving operations to increase or augment the natural level or grade of the land. Clean Fill shall not include any other organic or inorganic materials (including but not limited to garbage, untreated sludge, and construction debris). Clean Fill shall not include any radioactive, toxic, or otherwise hazardous materials.

**CLUSTER DEVELOPMENT**

A Development of Dwellings on Lots, some or all of which are smaller than is otherwise required, incorporating within the Development areas of open space.

**COMMON OPEN SPACE**

A parcel or parcels of land or an area of water, or a combination of land and water, within a developed site designed and intended for the use and enjoyment of the residents of that Development. It must be substantially free of structures, but may contain such improvements as are in the subdivision or Development plan as finally approved and are appropriate for residents' recreations. Streets, off-Street parking areas, areas set aside for public utilities (including sewage disposal areas), stormwater management areas and rights-of-way (used or unused) shall not be included in the calculation of Common Open Space area.

**COMPOSTING FACILITY**

A principal use of land involving the composting of one or more organic materials, including but not limited to spent mushroom soil, brought onto the site to produce a sellable marketable product, not for disposal or storage on-site or in connection with personal composting on a residential property.

**CONDITIONAL USE**

A use which is not appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and

factors prescribed for such cases is within this Ordinance are present. Conditional Uses are allowed or denied by the Board of Supervisors after a Public Hearing and review and comments from the Planning Commission.

**CUSTODIAL CARE**

The responsible guardianship of persons entrusted to the care of one or more caregivers who provide watching, protection and general overall supervision and guidance to their charges.

**DAY CARE HOME**

A single-Family Dwelling where day care services are provided for not more than six (6) children including children of the caregiver.

**DEVELOPER**

Any Landowner, agent of such Landowner, or tenant with the permission 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 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, drilling operations, storage of equipment or materials, and the subdivision of land.

**DWELLING or DWELLING UNIT**

A building or entirely self-contained portion thereof containing complete housekeeping facilities (i.e., a kitchen, a bathroom and other customary residential facilities), for occupancy by only one Family (including any domestic servants living or employed on the premises) with no enclosed space (other than vestibules, entrances, or other hallways or porches) in common with any other Dwelling Unit. Dwelling Units may be classified as follows:

- A. **SINGLE FAMILY**  
A building having only one Dwelling Unit from ground to roof, independent outside access, and open space on all sides.
- B. **TWO FAMILY**  
A building containing two Dwelling Units, a Twin or Duplex:
  - 1. **TWIN**  
A building containing two Dwelling Units, separated by a party wall, each having independent outside access and open space on three sides.

## 2. DUPLEX

A building containing two Dwelling Units from ground to roof, each of which has independent outside access and open space on all sides.

## C. MULTI-FAMILY

A building containing three or more Dwelling Units, including Four-Plex (quadraplex), Townhouse (single-Family attached), and Apartment Buildings.

## 1. FOUR-PLEX

A building containing four (4) Dwelling Units, each of which has independent outside access, two (2) non-parallel walls in common with adjacent Dwelling Units, and open space on two (2) non-parallel sides. Also called a quadraplex.

## 2. TOWNHOUSE

A Building containing not more than six (6) Dwelling Units, each of which is separated by party walls on opposite sides, and each of which has only one Dwelling Unit from ground to roof, independent outside access, not more than two (2) walls in common with adjoining units, and open space to the front and rear (internal units) or front, rear, and one (1) side (end units). Each unit can be referred to as a Single Family attached unit, particularly when separately owned.

## 3. APARTMENT BUILDING

A Building containing three (3) or more Dwelling Units separated by party walls, and which may have more than one (1) Dwelling Unit from ground to roof, common outside accesses, and hallways.

## 4. MOBILE HOME

See definition.

## EQUESTRIAN TRAINING FACILITY

A facility at which riding lessons, training of equine animals and/or boarding of equine animals takes place for compensation and to which more than ten (10) equine animals or more than ten (10) riders other than the owner or operator of the facility arrive and depart on a regular daily basis. The use by the members of a local not-for-profit organization or association, such as a foxhunting or pony club, of a facility operated by such organization or association shall not be subject to regulation as an Equestrian Training Facility.

## EQUESTRIAN USES

Equestrian uses and activities such as Animal Husbandry, boarding, riding, training and instruction of horses and riders, livery, and outdoor equestrian competitions and recreational activities, whether for private or commercial purposes. Where applicable,

Equestrian Uses shall comply with the Township's Temporary Outdoor Activities Ordinance or any similar successor ordinance.

#### EQUIPMENT FACILITY

Any Structure or enclosure used to contain ancillary equipment as a component of a Wireless Communication Facility, including a cabinet, shelter, a build-out of an existing Structure, or a pedestal.

#### EVENT SPACE

A facility that may be used, either (i) as a principal use or (ii) as an integral part of or accessory to a permitted principal use, on a temporary basis from time to time by members of the public or organizations for meetings, events, and other public or private group activities, such as parties, weddings, receptions, business conferences, seminars and similar activities, and that may or may not provide for catered meals prepared on or off the premises for the attendees. Functions at Event Space may be held in a Building or in a tent that is installed temporarily for a particular function. Where applicable, functions at Event Space, other than those held exclusively within a Building, shall comply with the Township's Temporary Outdoor Activities Ordinance or any similar successor ordinance.

#### FAMILY

Any number of individuals living together as a single, non-profit housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage, or adoption, including any number of foster children; or no more than six (6) unrelated individuals living in a group care facility, under Custodial Care; or no more than five (5) unrelated individuals living together as a single non-profit housekeeping unit and doing their cooking on one (1) kitchen on the premises. This definition does not include the occupants of a club, fraternity house, lodge, or Boarding, Lodging, or Rooming House.

#### FARM

A property on which Agriculture, Agricultural Operations and/or Equestrian Uses are conducted, on which the owner or operator may or may not reside.

#### FARM BUILDING

A Structure located on a Farm and used primarily for Agriculture, Agricultural Operations and/or Equestrian Uses such as a barn, stable, shed, silo, poultry house, but not including a mushroom house. A Farm Building may contain an attached Accessory Dwelling Unit.

#### FLOOD

A general and temporary condition of partial or complete inundation of normally dry land areas.

**FLOOD HAZARD AREA**

The relatively flat or low-lying area adjoining and including a water course or other body of water (such as a pond, marsh, or lake) which is subject to flooding during the One Hundred (100) Year Flood. The Flood Hazard Area may also be called the Floodplain and includes the areas more fully described in §1302(A) of this Ordinance. For some purposes, the Flood Hazard Area can be divided into two (2) zones, as delineated on the National Flood Insurance Program Flood Boundary and Floodway Map for East Marlborough Township (FBFM) as follows:

**A. FLOODWAY**

The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the one hundred (100) year Flood without causing more than a one (1) foot rise in the water surface elevation of the Flood at any point.

**B. FLOODWAY FRINGE**

The areas of the Flood Hazard Area not within the Floodway.

**FLOOD, ONE HUNDRED (100 YEAR)**

The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**FLOOR AREA RATIO**

The aggregate floor area, in square feet, of all stories in a Building or group of Buildings on a Lot divided by the area, in square feet, of the Lot.

**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.

**GARAGE, PRIVATE**

A building, not a private garage, used for the repair, servicing, or storage of motor vehicles; but not to include marshaling yard, trucking facility, facility for storage and repair of earthmoving or construction equipment, or motor vehicle wrecking facility.

**GASOLINE SERVICE STATION**

A Structure, building, or area of land or any portion thereof that is used for the sale of gasoline or diesel fuel, or substances which may or may not include facilities for lubricating, washing, sale of accessories, and otherwise servicing motor vehicles, but not including vehicle painting or other body work operations, or the sale of new or used

automobiles. Any business or industry dispensing gasoline only for its own use and vehicles will not be deemed a Gasoline Service Station.

#### GEOTHERMAL ENERGY SYSTEM

An energy generating system that uses the earth's thermal properties in conjunction with electricity to provide greater efficiency in the heating and cooling of buildings.

#### GIFT SHOP

A shop that sells miscellaneous articles appropriate as gifts or souvenirs, including books, pictures, sculptures, and clothing apparel.

#### GREEN AREA

Land shown on a development plan, comprehensive plan, or official map for conservation, preservation, recreation, landscaping, or a park in vegetative cover. For purposes of calculations, Green Area shall also include a body of water or watercourse.

#### GROUND ARRAY

An arrangement of solar panels or solar energy system including frames directly supported by the ground and not mounted on a building.

#### GROUP CARE HOME

A single-Family residence in which Custodial Care is provided for not more than six (6) persons.

#### HAZARDOUS WASTE

Infectious and chemotherapeutic wastes as typically produced by Hospitals, medical and dental offices, veterinarians, and mortuaries; radioactive wastes as typically produced by nuclear powered electric generating facilities; and heavy metals and corrosive wastes as typically produced as a by-product of photographic processing, circuit-board manufacture, and other industrial processes. Typical producers of such wastes are listed here for descriptive purposes only; the Township recognizes that this is not a comprehensive roster of Hazardous Waste producers and shall not be stopped from the enforcement of the Hazardous Waste regulations provisions of this Ordinance due to the absence of other producers from this definition.

#### HEIGHT OF BUILDINGS OR STRUCTURES

The vertical distance measured from the average finished grade at all foundation corners of the Structure, or at not less than ten (10) equidistant points in the case of a circular Structure, to a point midway between the highest and lowest points of the roof excluding the chimney or any superstructure above the roof such as stair or elevator bulkheads, water towers, etc.

#### HISTORIC STRUCTURE

Any structure that is:

- (i) 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;
- (ii) 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;
- (iii) Individually listed on a state inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of Interior, or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

#### HOME OCCUPATION

A legal activity conducted for compensation in a Dwelling or in a Building accessory to a Dwelling, clearly accessory to the residential use of the Dwelling, such as: a studio of an artist or musician; a professional office of an architect, engineer, accountant, lawyer, consultant, counselor, therapist, instructor, teacher, tutor, or public official; a trade or handicraft such as dressmaking, millinery, pottery, or baking; or a bed and breakfast operation. Home Occupations shall not include: the rendering of medical care or treatment to humans or animals; butchering or processing of animals or animal parts; gunsmithing or the assembly, repair or sale of firearms or other weapons or ammunition; or the retail sale of goods of any kind except for such retail sales of goods that are produced on the property and associated with a permitted Home Occupation conducted on the property.

#### HORTICULTURE

The raising and/or propagating of trees, shrubs, flowers and other non-agricultural plants.

#### HOSPITAL

A building within which the diagnosis, treatment, and care, both in-patient and out-patient, of human ailments are performed.

#### HOTEL

An establishment open to transient guests in which lodging with or without meals is offered for compensation and in which access to guest rooms is from an interior lobby, corridor or hallway accessed from a common entrance. A Hotel may contain a Restaurant and Event Space as integral components thereof.

#### IMPERVIOUS COVER

Materials which are impenetrable and thus usable to absorb liquid, such as buildings, Structures or paved areas.

#### IMPROVEMENT, SUBSTANTIAL

See SUBSTANTIAL IMPROVEMENT.

**KENNEL**

The use of land, buildings or structures for the purpose of boarding, training or grooming customary household or domestic pets for compensation, including but not limited to dogs and cats.

**LANDFILL**

See SANITARY LANDFILL.

**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 proprietary interest in the land.

**LIVESTOCK**

Animals of any size kept or raised as part of an Agricultural Operation or for Equestrian Uses, including but not limited to horses, mules, cattle, oxen, buffalo, sheep, hogs, goats, poultry, and furbearers.

**LOT**

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

**LOT AREA**

The total area within the Lot lines of a Lot, excluding any Street rights of way.

**LOT AVERAGING**

A means of developing Single Family detached Dwellings on Lots, some of which are larger and some of which are smaller than is otherwise required, not incorporating area of Common Open Space within the Development.

**LOT CORNER**

A Lot at the junction of and abutting on two (2) or more intersecting Streets where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. A Lot abutting a curved Street shall be deemed a corner Lot if the tangent to the curve at the points of intersection of the side Lot lines with the Street Lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

**LOT COVERAGE**

The percentage of the Adjusted Acreage of a Lot which is not Green Area, and is occupied by structures, walkways, parking areas, and driveways.

**REVERSE FRONTAGE LOT**

A Lot extending between and having frontage on two (2) generally parallel Streets with vehicular access from only one (1) Street.

**LOT WIDTH**

The distance between side Lot lines at the building setback line, measured parallel to the Street Line. Where the Street Line is curved or angled, the Lot Width shall be measured as a straight line, no part of which is within the building setback area.

**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 Ordinance.

**MICRO FACILITY**

A Wireless Communication Facility consisting of an Equipment Facility capable of being mounted onto the Attachment of Support Structure and antenna that is either: (1) no more than five (5) feet in height with a face area of not more than 580 square inches; or (2) if a tubular antenna, no more than four inches in diameter and no more than 7 feet in length.

**MINI-WAREHOUSE**

A self-storage facility where secured areas in a Building are rented to individuals only for short-term storage of household items (excluding motorized vehicles other than boats) and other non-hazardous, non-perishable durable goods.

**MOBILE HOME**

A transportable single-Family Dwelling intended for permanent occupancy, office or place of assembly, contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**MINERALS**

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

**MINERAL EXTRACTION**

The excavation, harvesting or removal by any means of any type of Minerals for commercial purposes, which does not involve any land development.

**MOBILE HOME PARK**

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

**MOTEL**

An establishment open to transient guests in which lodging with or without meals is offered for compensation and in which each guest room is offered principally for rental and use by motor vehicle travelers and has a separate entrance directly from the outside and a parking space. The term "Motel" includes, but is not limited to, auto court, motor inn, and motor lodge.

**MUSEUM**

A not-for-profit institution devoted to the procurement, care, study, display, and exhibition of objects of lasting interest or value and designed to be used by members of the public for viewing, with or without an admission charge.

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after December 19, 1979, and includes and subsequent improvements thereto.

**NON-CONFORMING LOT**

A Lot which does not conform to the area or bulk regulations of the district in which it is located, either at the time of the enactment of this Ordinance or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of such Ordinance or amendments.

**NURSERY**

An open or enclosed place where plants are propagated and grown for sale, transplanting, or experimentation. **[Amended by Ord. No. 2015-04]**

**PERFORMING ARTS FACILITY**

A Building designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

**PERMIT, ZONING** (also Building Permit, Occupancy Permit, Sign Permit, Demolition Permit, or similar permit)

A statement issued and Signed by a Township Official authorizing a proposed erection, Alteration, or enlargement of a Structure or occupancy of said Structure. Also, a statement issued and Signed by a Township Official authorizing erection, Alteration or enlargement of a Sign (Sign Permit), demolition of any Structure or portion thereof

(Demolition Permit) or occupancy of any Structure for which the use has changed (Change in Use Permit). Also, a statement issued and Signed by a Township Official authorizing work in the right-of-way of any Township road (Road Occupancy Permit) or construction of any driveway accessing any Township Road (Driveway Permit).

#### PHASE

A geographical area, tract or section that is part of a proposed Development which will be developed in accordance with a timetable for development over a period of years, which is included by the Applicant in the Development plan.

#### PRESERVATION or PROTECTION

When used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, or other lawful uses of natural resources.

#### PRIME AGRICULTURAL LAND

Land used for agricultural purposes that contains soil of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

#### PUBLIC HEARING

A formal meeting held pursuant to public notice by the Board of Supervisors or the Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with Act 247.

#### PUBLIC MEETING

A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), as amended, known as the "Sunshine Act".

#### PUBLIC NOTICE

Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Township. 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 second publication shall not be less than seven (7) days before the date of the hearing.

#### PUBLIC SEWER SYSTEM

A sewer system which serves more than two (2) Dwellings. It may be owned and operated by a private company or by a governmental agency.

#### PUBLIC WATER SYSTEM

A water system which serves more than two (2) Dwellings. It may be owned and operated by a private company or by a governmental agency.

REGION

The geographic region covered by the Unionville Area Regional Comprehensive Plan, namely, the Townships of East Marlborough, Newlin and West Marlborough.

REHABILITATION FACILITY

An institution for the temporary recuperation and treatment of persons suffering from physical injuries, addiction or mental disorders.

RESTAURANT

An establishment where food and beverages are prepared, served, and consumed primarily within the principal building. A Restaurant may include Event Space as an integral component thereof.

RESTAURANT, TAKE OUT

An establishment where food and beverages are sold in a form ready for consumption, and where a Significant portion of the consumption takes place or is designed to take place off the premises.

RESTAURANT, DRIVE-IN

An establishment where food and beverages are sold in a form ready for consumption, and where a Significant portion of the consumption takes place, or is designed to take place, through the serving and picking-up of food without leaving a vehicle, and for off-site consumption.

RETIREMENT COMMUNITY

A Development of individual Dwelling Units which may include a community center, and is designed as "housing for older persons" as defined in Title 42, Section 3607 of the Code of Federal Regulations. The residents thereof need not be actually retired from their occupation or employment, provided that 100% of the dwellings shall be for older persons as so defined.

ROOFTOP ARRAY

An arrangement of solar panels or solar energy system including frames mounted on a roof, whether pitched or flat, or a building.

SANITARY LANDFILL

A Lot or portion of a Lot used for the deposit and storage of solid waste in which all exposed waste is covered by Clean Fill every day. A Sanitary Landfill shall be operated in accordance with the standards of the Pennsylvania Department of Environmental Resources and shall be subject to periodic inspection thereby.

**SCHOOL**

A Building or group of Buildings designed and used for human educational purposes, including only the following: pre-schools, nursery schools, elementary and secondary schools, colleges, universities, junior colleges, and vocational and technical schools. A School may be either private or public. A School does not include an Assisted Living Facility, a Rehabilitation Facility, a correctional or penal institution, or a half-way house.

**SECONDARY FARM BUSINESS**

An accessory use undertaken by the owner or operator of an Agricultural Operation to provide a secondary source of income, including but not limited to blacksmithing, farm equipment repair, cabinet making, and carpentry.

**SIGN**

Any assembly of material or part thereof or any device, whether freestanding or attached to a Building, Structure or a wall or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag, symbol, or representation which is in the nature of, or which is used as, an announcement, direction, or advertisement for commercial purposes or otherwise. A Sign includes a billboard, illuminated or neon tube, string of lights, or similar device outlining, attached to or hung upon any part of a Building, Structure, wall or Lot, but does not include the flag or insignia of any nation, group of nations, or governmental agency. See §1702 for definitions of specific types of Signs.

**SLOPE**

The deviation of a surface from the horizontal, usually expressed in percent. As used herein, Slopes shall be measured over three (3) or more two (2) foot contour intervals established by field survey. Isolated areas of Slope comprising less than 500 square feet in horizontal area and man-made embankment may be excluded from the provisions of this ordinance, provided they do not adjoin or abut other areas of Slope of 20% or more.

**SOLAR ENERGY SYSTEM**

Any solar collector panel(s), films(s), shingle(s), or other solar energy device(s), or solar structural components(s), mounted on a building or on the ground and including all associated structures, facilities and equipment, whose purpose is to provide for the collection, storage and/or distribution of solar, or radiant, energy from the sun and used for heating or cooling, for water heating, for generation of electricity or other similar function(s). A solar energy system may be ground-mounted (i.e., placed on top of the ground surface) or roof-mounted (i.e., placed on or as an integral part of a building). A small-scale solar energy device whose sole purpose is to provide energy for equipment to which it is attached (such as a device that uses solar energy for side-walk-level landscape lighting) shall not be considered a solar energy system purposes of this Ordinance.

**SOLAR PANEL**

A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

**SPECIAL EXCEPTION**

A use which is not permitted as of right, but which, when deemed suitable, with or without the imposition of conditions or restrictions, under applicable standards, may be allowed by the Zoning Hearing Board after Public Hearing.

**SPECIMEN TREE**

A tree specifically worthy of conservation because of species, size, shape, form, location, age, historical importance or other significant characteristic. Specimen Trees are any trees located within the Township with a diameter of 36" or greater and any trees identified in the August 8, 1993 East Marlborough "Open Space, Recreation and Environmental Resources Plan" on the Biotic Resources Map (Map 4) as "Locally Important Vegetation," said Map being incorporated herein by reference.

**STAND OF TREES**

Groves or stands of trees greater than 4" caliper measured at a height of 4½' from the ground covering an area greater than ¼ acre; or groves or stands of trees greater than 10" caliper measured at a height of 4½' from the ground consisting of more than ten (10) individuals. **[Amended by Ord. No. 2015-04]**

**STEALTH**

Any Wireless Communication Facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened and/or landscaped Antenna Arrays and Equipment Facilities, and Support Structures designed to look other than like a Support Structure, such as a light pole, a power pole, a component of a building, or a tree.

**STORY**

That part of any building, exclusive of Cellars but inclusive of Basements, comprised between the level of one finished floor and the level of the next higher finished floor, or if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

**STREET**

A right-of-way and improvements therein, whether public or private, used or intended to be used by vehicular traffic or pedestrians. The word "Street" includes the words such as "avenue," "boulevard," "road," "lane," "alley," and similar terms.

**STREET LINE**

The edge of a Street right-of-way.

**STRUCTURE**

Except as provided below, an assembly of material having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including among other things, Buildings, Signs, fences, walls over four (4) feet in height, aerials and antennae, porches, platforms, piers, pipelines, tennis courts, paddle tennis courts, shelters, Swimming Pools, tents, towers, trestles, tanks, and utility poles. Driveways, walkways, and sidewalks are excluded from this definition for regulatory purposes, except for purposes of Impervious Coverage.

**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 fifty (50) percent or more of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (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,' regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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; or
- (2) Any alteration of a 'historic structure,' provided that the alteration will not preclude the structure's continued designation as a 'historic structure.'

**SUPPORT STRUCTURE**

A Structure designed and constructed to support an Antenna Array or Micro Facility, and may include a utility pole, a monopole, self-supporting (lattice), or guy-wire support tower, and other similar Structures.

**SWIMMING POOL**

A reasonably permanent pool or open tank, whether in-ground or above-ground, not located within a completely enclosed building, and capable of containing water for swimming, bathing, or wading at least one and one-half (1½) feet in depth. Farm ponds and storm water retention basins are not included within this definition.

**TAVERN**

An establishment used primarily for the serving of alcoholic beverages by the drink and food to the general public within the principal building, and where packaged alcoholic beverages may be sold accessory to the primary use.

**TRACT SIZE**

Shall be the "Gross Area" of a designated parcel, piece of land, or site that is measured within the legal property lines of same.

**UNIFORMITY RATIO**

The term normally applied to Street lighting uniformity by the Illuminating Engineering Society. For example, a ratio of 3:1 indicates that the point of lowest foot-candle measurement cannot be less than one-third of the specified minimum average foot-candle level established by this Ordinance.

**VARIANCE**

A waiver from the strict terms of this Ordinance, by order of the Zoning Hearing Board, after Public Hearing, when authorized by law.

**VETERINARY CLINIC**

A facility maintained by and for the use of one or more licensed veterinarians in the diagnosis, treatment and/or prevention of animal diseases or injuries wherein the animals are limited to household or domestic pets and wherein overnight care and boarding of said animals is limited to that necessary for the medical treatment of the animals.

**WALKWAY**

A path or passageway for the use of pedestrians, constructed so that the surface will not permit erosion or muddy strips, and for the purpose of acting as route connections between residential areas, parking areas, and recreational areas.

**WATER ENERGY SYSTEM**

A type of geothermal energy system in which water is pumped from a water well or other ground water source into a heat exchanger. A water energy system can be either closed loop (where the pipes are connected to the heat exchanger and heat transfer fluid is circulated through the pipes) or open loop system (where the water drawn from the earth is pumped by into the ground through a different well as "re-injection").

**WETLANDS**

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. It is the intention of this definition that a delineated wetland hereunder shall coincide with Wetlands as

delineated pursuant of the United States Army Corps of Engineers “Wetlands Delineation Manual,” as the same may be from time to time amended.

#### WIND ENERGY SYSTEM

Any facility, including all associated structures, facilities and equipment, whose purpose is to produce, store and/or distribute electricity from wind, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component necessary to fully utilize the wind generator, also referred to as a “Wind Turbine.”

#### WIRELESS COMMUNICATION SERVICE

Any personal wireless service as defined by the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

#### WIRELESS COMMUNICATION FACILITY

Any unstaffed facility for the transmission and/or reception of Wireless Communication Services, usually consisting an Antenna Array or Micro Facility, connection cables, an Equipment Facility, and a Support Structure or Attachment Structure to achieve the necessary elevation.

#### YARD

An open area around the inner periphery of each Lot, extending along the Lot lines and Street Lines and inward to a Structure, in which no buildings or Structures shall be erected. The size of a Yard shall be measured as the shortest distance between the Structure and a Lot line or Street Line.

- A. YARD, FRONT
  1. A Yard between a Structure and a Street Line and extending the entire length of the Street Line.
  2. In the case of a corner Lot, the Yards extending along all Streets are Front Yards and the remaining Yards shall include a Rear Yard, opposite the Street to which the principal building is generally faced, and a Side Yard, opposite the other Street.
  3. In the case of a Reverse Frontal Lot, the Yard extending along the Street to which access is provided is the Front Yard.
  4. In the case of a Lot which does not, except for its access way, front on a Street (commonly called a “flag Lot”), the Lot line located closest to the

Street to which the access way is connected shall be designated as the front Lot line, from which the depth of the Front Yard shall be measured.

- B. YARD, REAR  
A Yard between a Structure and a rear Lot line and extending the entire length of the rear Lot line.
- C. YARD, SIDE  
A Yard between a Structure and a side Lot line, extending the entire length of the side Lot line.

## **ARTICLE III ESTABLISHMENT OF DISTRICTS**

### **SECTION 301. CLASSES OF DISTRICTS**

- A. For the purposes of this Ordinance, the Township of East Marlborough is hereby divided into the following classes of districts:

AP	Agricultural Preservation
R-B	Residential
R-M	Residential – Multi-Family
C-1	Village Commercial
C-2	Highway Commercial
WMU	Willowdale Multiple Use
LMU	Limited Multiple Use District
MU	Multiple Use
L-1	Limited Industrial
ESI	Educational, Scientific, and Institutional

- B. In addition, certain areas as shown on the Planned Residential Development Overlay Map and the Retirement Community Overlay Map are also designated, by overlay, as eligible for:

PRD	Planned Residential Development
RET	Retirement Community Development

- C. Certain area as shown on the Historic District, Flood Hazard District, and Groundwater Protection District Overlay Maps are, in addition to otherwise applicable regulations, subject to the regulations contained in:

Article XII Historic District – H

Article XIII Flood Hazard District – FH

Article XIV Groundwater Protection District – GP

## **SECTION 302. ZONING MAPS**

The boundaries of districts shall be as shown on the map attached hereto and made a part of this Ordinance which map shall be known as the “Zoning Map of East Marlborough Township.” In addition, certain areas are included in overlay districts as well as being included within the Base Zoning districts, as shown on the “Groundwater Protection District Overlay Map,” “Flood Hazard District Overlay Map,” Unionville Historic District Map; and “Historic Resource Overlay Map,” which maps are also attached hereto and made part of this Ordinance. Said maps and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of this Ordinance as if all were fully described herein.

## **SECTION 303. DISTRICT BOUNDARIES**

The boundaries between districts are, unless otherwise indicated, the center lines of Streets or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the Zoning Map between a Street and a district boundary line, they indicate that the district boundary line runs parallel to the Street Line at a distance therefrom equivalent to the number of feet so indicated. Where a district boundary is indicated as approximately following a Lot or other property line, or a line designated natural features, such as geologic formations, contours, streams, and soil types, such Lot or property line or natural feature designation shall be construed to be such boundary.

## **SECTION 304. DISTRICT OF ANNEXED AREAS**

Any territory hereafter added to the Township shall be considered to be zoned R-B Residential until otherwise classified by action of the Township of East Marlborough.

**SECTION 305. FEDERAL, STATE, COUNTY, MUNICIPALLY OWNED PROPERTY**

Whenever Federal, State, County, or Municipally owned property is included in one or more zoning districts, it shall be subject to the provisions of this Ordinance only insofar as is permitted by the Constitution and laws of the United States of America and the Commonwealth of Pennsylvania. Notwithstanding anything set forth in this Ordinance, Municipal property shall be exempt from all but the setback and land coverage provisions of this Ordinance.

## **ARTICLE IV**

### **AGRICULTURAL PRESERVATION DISTRICT (AP)**

#### **SECTION 401. AGRICULTURAL PRESERVATION DISTRICT – (AP)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
1. To encourage and promote continued agricultural, open space, and conservation uses in the AP zoning district, while also permitting low density residential development as would be compatible with the existing rural character of the area and agricultural uses.
  2. To recognize agriculture as a productive land use and as an ongoing and viable component of the economy of the township and Chester County and to provide suitable areas for such uses.
  3. To preserve prime agricultural soils that are currently in agricultural uses and to preserve natural resources, including forests, wetlands, and floodplains, that are least appropriate for development.
  4. To prevent adverse affects resulting from the encroachment and mixing of residential and other incompatible development with agricultural uses.
- B. Accordingly, the district incorporates a density standard which, among other things:
1. Provides for agricultural and low-density Dwelling uses; and
  2. Facilitates the conservation of agricultural and woodland areas, wetlands and floodplains, surface and underground water supplies, and wildlife habitats, and the control of soil erosion due to surface water flooding.
- C. In the AP Agricultural Preservation District, all provisions of this Article shall apply.

**SECTION 402. USE REGULATIONS****A. Uses by Right.**

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other.

1. Agriculture, Agricultural Operations, Equestrian Uses, and Farm, each in accordance with the provisions of §1804 of this Ordinance, "Farm Regulations." Notwithstanding the foregoing, mushroom culture is not permitted.
2. Forestry, subject to the requirements of §1821 of this Ordinance.
3. Woodland preserve, game preserve, wildlife sanctuary, or other conservation purpose.
4. Single Family detached Dwelling.
5. Group Care Homes in accordance with provisions of §1814 of this Ordinance.

**B. Uses by Special Exception.**

Any of the following uses shall be permitted as a Special Exception when authorized by the Zoning Hearing Board, subject to the standards of §2109 of this Ordinance.

1. Accessory Dwelling Unit subject to the following conditions:
  - a. For Accessory Dwelling Units detached from the principal use, the minimum square footage of the accessory Dwelling use shall be 600 square feet. The maximum square footage of the Accessory Dwelling Unit shall be fifty percent (50%) of the total heated living space in the principal use to which the unit is accessory. If the Accessory Dwelling Unit is attached to the principal use, then there shall be no minimum square footage requirement.
  - b. An Applicant for a building permit for an Accessory Dwelling Unit (including a permit to convert an existing Dwelling by adding an

accessory Dwelling within the existing Dwelling Unit) shall present with the building permit application:

- i. a permit from the Chester County Health Department for either (A) tie-in to an existing on-site sanitary sewage treatment system having sufficient capacity to treat the additional sewage flows from the Accessory Dwelling Unit, or for an expansion of such system, or (B) a new on-site sewage disposal system, unless the property is served by a Public Sewer System with available capacity, in which case, the Applicant shall pay the prescribed tap-in fee for the Accessory Dwelling Unit and provide plans for tie-in to the public system.
- ii. a report from a qualified professional that the existing domestic water supply facilities are adequate to serve both the principal and Accessory Uses, or, in the alternative, the permit for the drilling of a new well, unless the property is served by public water supply.
- c. The Accessory Dwelling Unit must comply with the applicable Lot Coverage, Accessory Buildings and Structures, and Height regulations applicable within the zoning district, including as set forth in Section 403, and comply with the parking requirements of §1812 (A)(2).
- d. No Accessory Dwelling Unit shall be located above the second floor in a building.
- e. The Accessory Dwelling Units may be permitted within a Farm Building located on a separate Lot from the principal Farm use.
- f. All individuals living in an Accessory Dwelling Unit must be Family members of the owner of the property or persons employed on the property or be related by blood, marriage or legal adoption, to the owners or the employed persons.
- g. The owner of the property must obtain a Zoning Permit in accordance with §2004 for the use and the owner must execute a Memorandum of agreement in a form and substance satisfactory to the Township Solicitor, and which shall be recorded with the Recorder of Deed of Chester County setting forth the conditions of the use. If a new Structure is proposed as the Accessory Dwelling Unit use, then the property owner must obtain land

development approval from the Township in accordance with the Subdivision and Land Development Ordinance. Architectural elevations of any proposed exterior changes shall be submitted as part of the Zoning Permit or land development application, for review by the Township.

- h. For more than one (1) Accessory Dwelling Unit on a Lot, the following additional requirements shall apply:
  - i. The principal use of the property must be a Farm.
  - ii. No more than one (1) Accessory Dwelling Unit shall be permitted on a Lot having a Lot Area of less than ten (10) acres.
  - iii. No more than two (2) Accessory Dwelling Units shall be permitted on a Lot having a Lot Area of less than forty (40) acres and more than ten (10) acres.
  - iv. No more than three (3) Accessory Dwelling Units shall be permitted on a Lot having a Lot Area of less than one hundred (100) acres and more than forty (40) acres.
  - v. No more than four (4) Accessory Dwelling Units shall be permitted on a Lot having a Lot Area of one hundred (100) acres or more.

C. Conditional Uses.

The following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008 of this Ordinance.

- 1. Equestrian Training Facility;
- 2. Pony club, fox hunting club, or other outdoor recreational use of a similar nature customarily located in natural woodland or open settings that includes an accessory club or lodge Structure;

provided that in the case of any use described in Subsections 1 or 2 above:

- a. The minimum area of the property on which the use is conducted shall not be less than twenty (20) acres;

- b. The use and its design are compatible with the rural character of the area;
  - c. Each Structure shall be clearly incidental to the outdoor use;
  - d. Any club or lodge building and its services shall be for the use of members and their guests only.
3. No commercial activity or use such as a campground, amusement park, pitch-and-putt course, Event Space, and like uses customarily carried on as a business shall be permitted.

D. Accessory Uses.

The following Accessory Uses shall be permitted, provided that they shall be incidental to any of the foregoing permitted uses:

1. Customary Farm and residential Accessory Uses, including Farm Building, private garage, greenhouse, and keeping of animals.
2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the front façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.
  - b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.
  - c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise

permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.

- d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.
- e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.
- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted for use in connection with the Home Occupation on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building and no stocking of finished products or inventory of a substantial nature shall be permitted on the property. No outside storage of finished goods or inventory of any kind shall be permitted.
- h. The appearance of the residential Structure or Accessory Building shall not be altered nor the occupation within conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.
- i. There shall be no discharge of potentially dangerous effluent or fumes.
- j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally

be used on a property of a homeowner not engaged in a Home Occupation.

- k. No equipment, process or other activities associated with the conduct of the Home Occupation shall be permitted which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of an attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver or other electronic equipment on a neighboring property.
  - l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view from neighboring properties and Streets.
- 4. Secondary Farm Business; provided that the owner or operator of the Farm is actively engaged in the Secondary Farm Business and no more than three (3) individuals who are not immediate family members of the owner or operator are engaged in the Secondary Farm Business.
  - 5. The sale of farm products in accordance with the provisions of §1805 of this Ordinance, "Sale of Farm Products."
  - 6. Day Care Homes may be permitted as a Home Occupation only within a Single Family Dwelling in accordance with provisions of §1815 of this Ordinance.

**SECTION 403. AREA AND BULK REGULATIONS**

A. Lot Area.

1. Except as otherwise provided in §403(A)(2), every Lot shall have a Tract Size of not less than twenty (20) acres, provided that, if the Lot does not abut on a Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimum Tract Size of twenty (20) acres.

2. A Lot having a Tract Size of no less than twenty (20) acres may be created by subdivision subject to the following conditions:

a. Each Lot created as a result of the subdivision shall either (i) satisfy the requirements of §403(A)(1) or (ii) be an AP 1-2 Acre Lot or (iii) be an AP 10-20 Acre Lot, so long as the average Tract Size of all Lots of greater than ten (10) acres created as a result of such subdivision shall be no less than twenty (20) acres.

b. The total number of AP 1-2 Acre and AP 10-20 Acre Lots that may be created by subdivision of an existing Lot shall be subject to the following limitations: (i) no more than one (1) AP 1-2 Acre Lot may be created for every twenty (20) acres included in the existing Lot; (ii) no more than one (1) AP 10-20 Acre Lot may be created for every forty (40) acres included in the existing Lot and (iii) for every AP 10-20 Acre Lot created by subdivision, the number of AP 1-2 Acre Lots permitted to be created on the existing Lot shall be reduced by two (2) and the number of Lots having a Tract Size of not less than twenty (20) acres shall be reduced by one (1). A tabular depiction of the limitations on the maximum number of AP 1-2 Acre Lots and AP 10-20 Acre Lots is as follows:

Tract Size In Acres	Maximum Number of AP 1-2 Acre Lots Permitted	Maximum Number of AP 10 - 20 Acre Lots Permitted
Less than 20 acres	zero (0)	zero (0)
At least 20 but less than 40 acres	one (1)	zero (0)
At Least 40 but less than 60 acres	two (2)	one (1)

At least 60 but less than 80 acres	three (3)	one (1)
At least 80 but less than 100 acres	four (4)	two (2)
At least 240 but less than 260 acres	twelve (12)	six (6)
At least 260 but less than 280 acres	thirteen (13)	six (6)
At least 280 but less than 300 acres	fourteen (14)	seven (7)

- c. The number of Lots having a Lot Area of not less than twenty (20) acres which may be created by subdivision of an existing Lot in accordance with §403(A)(2)(b) shall be fixed by the size of the existing Lot as of September 8, 2004 from which such additional Lots are subdivided, and all such Lots created by subdivision of an existing Lot from and after September 8, 2004 shall be counted and taken into account when determining the number of additional such Lots, if any, and the average Tract Size of such Lots, which may be created thereafter by further subdivision of the existing Lot.
  
- d. Any subdivision or land development plan filed after September 8, 2004 shall specify which remaining Lot or Lots shall carry a right of further subdivision to create any additional Lot or Lots permitted in accordance with §403(A)(2)(b). Such information shall also be included in a restrictive covenant agreement in form satisfactory to the Township Solicitor, specifying (i) which Lots (if any) shall carry a right of further subdivision, and (ii) restricting in perpetuity all other Lots within the subdivision against further subdivision, which agreement shall be recorded with the Recorder of Deeds of Chester County. If this information is not included on a subdivision or land development plan, it shall be presumed that the largest Lot having a Tract Size of not less than twenty (20) acres remaining after the subdivision shall carry the right of further subdivision to create any additional Lot or Lots permitted in accordance with §403(A)(2)(b).
  
- e. If any Lot created as a result of the subdivision does not abut on a Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimum Lot Area of such Lot.

B. Lot Width.

For Lots having a Lot Area of two (2) acres or less, each Lot shall have a width not less than one hundred fifty (150) feet at the Building Line. For Lots having a Lot Area of more than two (2) acres, each Lot shall have a width not less than two hundred (200) feet at the Building Line.

C. Lot Coverage.

For Lots having a Lot Area of two (2) acres or less, not more than twelve (12) percent of the area of each such Lot may be occupied by buildings or other Impervious Cover; the remaining area shall be Green Area. For Lots having a Lot Area of more than two (2) acres, not more than ten (10) percent of the area of each such Lot may be occupied by buildings or other Impervious Cover. In no event shall any Structure exceed 5,000 square feet of Impervious Cover, except that such Impervious Cover limit shall not apply to a Structure that is primarily used in connection with an Agricultural Operation.

D. Front Yard.

For Lots having a Lot Area of two (2) acres or less, there shall be a Front Yard of not less than sixty (60) feet from the front Building Line to the Street Line or front Lot line. For Lots having a Lot Area of more than two (2) acres, there shall be a Front Yard of not less than seventy-five (75) feet from the front Building Line to the Street Line or front Lot line.

E. Side Yards.

For every principal building, there shall be two (2) Side Yards. For Lots having a Lot Area of two (2) acres or less, the Side Yards shall be not less than sixty (60) feet in aggregate width and neither of which shall be less than twenty-five (25) feet in width. For Lots having a Lot Area of more than two (2) acres, the Side Yards shall be not less than one hundred (100) feet in aggregate width and neither of which shall be less than fifty (50) feet in width.

F. Rear Yard.

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than sixty (60) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1812(B)2 shall apply.

G. Accessory Buildings and Structures.

No Accessory Buildings or Accessory Structures shall be situated within the Front Yard, nor within twenty (20) feet of any side or rear property line; provided that the setbacks applicable to Accessory Buildings or Accessory Structures utilized in or associated with Agricultural Operations, Equestrian Uses, or storing Agriculture products or equipment shall be in accordance with the provisions of §1804 of this Ordinance, "Farm Regulations." Mailboxes, basketball backboards, lampposts, and similar Structures are permitted.

H. Height restriction.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building, other than a Farm Building, shall exceed twenty (20) feet in height.

## **SECTION 404. DESIGN STANDARDS**

A. Residential and agricultural uses by right and uses by Special Exception.

1. Parking. As required by §1812(A)2 of this Ordinance.
2. Access and highway frontage. As required by §1812(B) of this Ordinance.

B. Recreational uses by right and Conditional Uses.

1. Parking. As required by §1812(A)1 of this Ordinance, subject to being varied or waived with the approval of the Board of Supervisors.
2. Access and highway frontage. As required by §1812(B) of this Ordinance.

3. Landscaping. As required by §1812(C) of this Ordinance, subject to being varied or waived for outdoor uses with the approval of the Board of Supervisors.

## **ARTICLE V RESIDENTIAL DISTRICT – B (R-B)**

### **SECTION 501. RESIDENTIAL DISTRICT – B (R-B)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
1. To encourage and promote continued agricultural, open space, and conservation uses in the R-B zone, while also permitting low to medium density residential development which will be consistent with existing residential development and agricultural uses; and
- B. Accordingly, the district incorporates a density standard which, among other things:
1. Provides for farm and low- to medium-density Dwelling uses;
  2. Permits development on a lot-by-lot basis, but through the use of the cluster option, encourages preservation of open space ancillary to such development; and
  3. Facilitates the conservation of agricultural and woodland areas, surface and underground water supplies, and the control of soil erosion due to surface water Flooding.
- C. In the R-B Residential District – B, all provisions of this Article shall apply.

### **SECTION 502. USE REGULATIONS**

- A. Uses by Right.

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other.

1. Single Family detached Dwelling.
  2. Woodland, game preserve, or other conservation purpose.
  3. Agriculture, Agricultural Operations, Equestrian Uses, and Farm, each in accordance with the provisions of §1804 of this Ordinance, “Farm Regulations.” Notwithstanding the foregoing, mushroom culture is not permitted.
  4. Group Care Homes in accordance with provisions of §1814.
  5. Lot Averaging for Single Family residential subdivisions in accordance with the Provisions of Article XVI of this Ordinance.
  6. Cluster Development for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance, provided that the tract to be developed shall be fifteen (15) acres or more in Area.
  7. Within those portions of the R-B District designated as eligible for Planned Residential Development (PRD) on the PRD Overlay Map, a Planned Residential Development in accordance with Article XV of this Ordinance.
  8. Within those portions of the R-B District designated as eligible for Retirement Community Development on the RET Overlay Map, a Retirement Community Development in accordance with Article XV-A of this Ordinance.
  9. Forestry, subject to the requirements of Section 1821 of this Ordinance.
  10. Access by private driveway to a Church permitted in an adjoining district.
- B. Uses by Special Exception.

Any of the following uses shall be permitted as a Special Exception when authorized by the Zoning Hearing Board, subject to the standards of §2109 of this Ordinance.

1. Accessory Dwelling Unit subject to the following conditions:
  - a. For Accessory Dwelling Units detached from the principal use, the minimal square footage of the accessory Dwelling use shall be 600 square feet. The maximum square footage of the Accessory Unit

shall be 50% of the total heated living space in the principal use to which the unit is accessory. If the Accessory Dwelling Unit is attached to the principal use, then there shall be no minimum square footage requirement.

- b. An Applicant for a building permit for an Accessory Dwelling Unit (including a permit to convert an existing Dwelling by adding an accessory Dwelling within the existing Dwelling Unit) shall present with the building permit application:
  - i. a permit from the Chester County Health Department for either (A) tie-in to an existing on-site sanitary sewage treatment system having sufficient capacity to treat the additional sewage flows from the Accessory Dwelling Unit, or for an expansion of such system, or (B) a new on-site sewage disposal system, unless the property is served by a Public Sewer System with available capacity, in which case, the Applicant shall pay the prescribed tap-in fee for the Accessory Dwelling Unit and provide plans for tie-in to the public system.
  - ii. a report from a qualified professional that the existing domestic water supply facilities are adequate to serve both the principal and Accessory Uses, or, in the alternative, the permit for the drilling of a new well, unless the property is served by public water supply.
- c. The Accessory Dwelling Unit must comply with the applicable Lot Coverage, Accessory Buildings and Structures, and Height regulations of the underlying zoning district, and comply with the parking requirements of §1812(A).
- d. No Accessory Dwelling Unit shall be located above the second floor in a building.
- e. The Accessory Dwelling Units may be permitted within a Farm Building located on a separate Lot from the principal Farm use.
- f. All individuals living in an Accessory Dwelling Unit must be Family members or persons employed on the property or be related by blood, marriage or legal adoption, to the owners or the employed persons.

- g. The owner of the property must obtain a Zoning Permit in accordance with §2004 for the use and the owner must execute a Memorandum of Agreement in a form and substance satisfactory to the Township Solicitor, and which shall be recorded with the Recorder of Deeds of Chester County setting forth the conditions of the use. If a new structure is proposed as the Accessory Dwelling use, then the property owner must obtain land development approval from the Township in accordance with the Subdivision and Land Development Ordinance. Architectural elevations of any proposed exterior changes shall be submitted as part of the Zoning Permit or land development application, for review by the Township.
- h. For more than one (1) Accessory Dwelling Unit on a Lot, the following additional requirements shall apply:
  - i. The principal use of the property must be a Farm.
  - ii. The number of principal and Accessory Dwelling Units permitted on a Lot shall be based on the Adjusted Acreage for the property divided by the minimum Lot size for the zoning district in which the property is located up to the maximum number specified herein.
  - iii. No more than four (4) Accessory Dwelling Units shall be permitted on a Lot.

C. Conditional Uses.

The following use shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008:

1. Equestrian Training Facility;
2. Golf course, pony club, fox hunting club, or other outdoor recreational use of a similar nature customarily located in natural woodland or open settings that includes an accessory club or lodge Structure;

provided that in the case of any use described in Subsections 1 or 2 above:

- a. The minimum area of the property on which the use is conducted shall not be less than twenty (20) acres;

- b. The use and its design are compatible with the rural character of the area;
  - c. Each Structure shall be clearly incidental to the outdoor use;
  - d. Any club or lodge building and its services shall be for the use of members and their guests only.
3. No commercial activity or use such as a campground, amusement park, pitch-and-putt course, Event Space, and like uses customarily carried on as a business shall be permitted.

D. Accessory Uses.

The following Accessory Uses shall be permitted, provided that they shall be incidental to any of the foregoing permitted uses:

1. Customary Farm and residential Accessory Uses, including Farm Building, private garage, greenhouse, and keeping of animals.
2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the front façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, except as to Swimming Pools for lots of less than one acre in Cluster, Lot Averaging, or Planned Residential Development; within which the setback for such Swimming Pools shall be at least twenty-five (25) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.
  - b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.

- c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.
- d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.
- e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.
- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building and no stocking of finished products or inventory of a substantial nature shall be permitted on the property. No outside storage of finished goods or inventory of any kind shall be permitted.
- h. The appearance of the residential Structure or Accessory Building shall not be altered nor the occupation within conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.
- i. There shall be no discharge of potentially dangerous effluent or fumes.

- j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally be used on a property of a homeowner not engaged in a Home Occupation.
  - k. No equipment, process or other activities associated with the conduct of the Home Occupation shall be permitted which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of an attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver or other electronic equipment on a neighboring property.
  - l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view from neighboring properties and Streets.
- 2. The sale of farm products in accordance with the provisions of §1805 of this Ordinance, "Sale of Farm Products."
  - 3. Day Care Homes may be permitted as a Home Occupation only within a single –Family Dwelling in accordance with provisions of § 1815.

**SECTION 503. AREA AND BULK REGULATIONS****A. Lot Area.**

Every Lot shall have an Adjusted Lot Area of not less than 80,000 square feet, provided that, if the Lot does not abut on a Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimum Adjusted Lot Area of 80,000 square feet.

**B. Lot Width.**

Each Lot shall have a width not less than two hundred (200) feet at the Building Line.

**C. Lot Coverage.**

Not more than ten (10) percent of the area of each Lot may be occupied by buildings or other Impervious Cover.

**D. Front Yard.**

There shall be a Front Yard of not less than seventy-five (75) feet from the front Building Line to the Street Line or front Lot line.

**E. Side Yards.**

For every principal building, there shall be two (2) Side Yards which shall be not less than seventy-five (75) feet in aggregate width and neither of which shall be less than thirty-five (35) feet in width.

**F. Rear Yard.**

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than sixty (60) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1812(B)2 shall apply.

G. Accessory Buildings and Structures.

No Accessory Buildings shall be situated within the Front Yard, nor within twenty (20) feet of any side or rear property line. Mailboxes, basketball backboards, lampposts, and similar Structures are permitted.

H. Height restriction.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building, other than a Farm Building, shall exceed twenty (20) feet in height.

## **SECTION 504. DESIGN STANDARDS**

A. Residential and agricultural uses by right, except Cluster Development.

1. Parking. As required by §1812(A)2 of this Ordinance.
2. Access and highway frontage. As required by §1812(B) of this Ordinance.

B. Recreational uses by right, Cluster Development, uses by Special Exception, and Conditional Uses.

1. Parking. As required by §1812(A) 1 of this Ordinance.
2. Access and highway frontage. As required by §1812(B) of this Ordinance.
3. Landscaping. As required by §1812(C) of this Ordinance.

## **ARTICLE VI RESIDENTIAL MULTI-FAMILY DISTRICT (R-M)**

### **SECTION 601. RESIDENTIAL MULTI-FAMILY DISTRICT (R-M)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, it is the purpose of this Section to encourage medium to high density residential development in the R-M zones, which are easily accessible to major highways, commercial areas, and utilities.
- C. To fulfill the purposes of this district, density standards have been incorporated which, among other things, provide for medium to high density Dwelling uses and permit well-designed Multi-Family developments which contain a variety of housing types.
- D. In the R-M Residential Multi-Family district, all regulations of this Article shall apply.

### **SECTION 602. USE REGULATIONS**

- A. Uses by Right

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other.

- 1. Single Family Detached Dwelling.
- 2. Two-Family Dwelling, when served by central water and sewer systems.
- 3. Multi-Family Dwelling, when served by central water and sewer systems.
- 4. Group Care Homes in accordance with provisions of Section 1814.
- 5. Lot Averaging for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance.

6. Cluster Development for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance, provided that the tract to be developed shall be fifteen (15) acres or more in Gross Area.
7. Forestry, subject to the requirements of Section 1821.

B. Uses by Special Exception

Any of the following uses shall be permitted as a Special Exception when authorized by the Zoning Hearing Board, subject to the standards of §2109 of this Ordinance.

1. Boarding, Lodging, or Rooming House.

C. Conditional Uses

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Mobile Home park, in accordance with the provisions of §603(D), when served by central water and sewer systems.

D. Accessory Uses

The following Accessory Uses shall be permitted, provided that they shall be incidental to any of the preceding permitted uses.

1. Customary residential Accessory Uses, including a private garage or greenhouse.
2. Swimming Pool, tennis court, or paddle tennis court, provided it is set back at least fifty (50) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.

- b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.
- c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.
- d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.
- e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.
- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building.
- h. The appearance of the residential Structure or Accessory Building shall not be altered nor the occupation within the conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.

- i. There shall be no discharge of potentially dangerous effluent or fumes.
  - j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally be used on a property of a homeowner not engaged in a Home Occupation.
  - k. No equipment, process or other activities associated with the conduct of the Home Occupation shall be permitted which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of an attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver or other electronic equipment on a neighboring property.
  - l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view from neighboring properties and Streets.
4. Day Care Homes may be permitted as a Home Occupation only within a single-Family Dwelling in accordance with provisions of §1815.
  5. Accessory Dwelling Units in accordance with the provisions in §502(B)1, except that the total minimum Lot Area required for a principal and Accessory Dwelling Unit shall be two (2) times the applicable Single Family Lot Area regulations in the R-M District. **[Amended by Ord. No. 2015-04]**

**SECTION 603. AREA AND BULK REGULATIONS**

A. Single Family Residences

1. Lot Area and bulk regulations.

Every Lot containing a Single Family residence shall have an Adjusted Lot Area of not less than 80,000 square feet if not served by both central water and sewer systems or not less than 40,000 square feet if served by both central water and sewer systems; provided that if the Lot does not abut a Street or road, the Lot must be connected to a road or Street by a right-of-way or roadway at least 25 feet wide, which right-of-way or roadway shall be in addition to the minimum Adjust Lot Area requirement. For every Lot not served by both central water and sewer systems, the Lot Width, Lot Coverage, Yard regulations, Accessory Structure regulations, and height restrictions shall be as set forth in §503 of this Ordinance.

2. Lots serviced by central water and sewer systems.

A Lot serviced by central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	40,000 square feet
Minimum Lot Width:	125 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	40 feet
Minimum Side Yard (aggregate):	50 feet, 20 feet minimum
Minimum Rear Yard:	50 feet

Accessory Structures shall be located not less than twenty feet from rear or side property lines.

B. Two-Family Dwellings (Duplex or Twin Dwellings)

1. Lot Area.

Every Lot containing Twin or Duplex residences shall have an Adjusted Lot Area of not less than ten thousand (10,000) square feet per Family, provided that, if the Lot does not abut a road or Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in

addition to the minimum Adjusted Lot Area of ten thousand (10,000) square feet per Family.

2. Lot Width.

Every Lot containing Twin or Duplex residences shall have a minimum aggregate Lot Width for two Dwelling Units of one hundred twenty (120) feet.

3. Lot Coverage

Not more than thirty (30) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

4. Front Yard.

There shall be a Front Yard of not less than forty (40) feet from the front Building Line to the Street Line or front Lot line, where it fronts on a local residential Street, of sixty (60) feet where it fronts on an arterial, collector, or rural road.

5. Side Yards.

For every principal building containing two (2) Dwelling Units there shall be two (2) Side Yards, each of which shall be not less than fifteen (15) feet in width.

6. Rear Yard

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than fifty (50) feet in depth.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard, nor within ten (10) feet of any side or rear property line.

8. Height restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

## C. Multi-Family Dwellings

1. Minimum Tract Size: Every tract to be subdivided or developed for Multi-Family Dwellings shall have an Adjusted Lot Area of not less than five (5) acres. **[Amended by Ord. No. 2015-04]**
2. Density: The maximum density for Townhouse development shall be five (5) Dwelling Units per Adjusted Acre and for Apartment Buildings the maximum density shall be seven (7) Dwelling Units per Adjusted Acre. **[Amended by Ord. No. 2015-04]**
3. Tract Setback: There shall be a minimum tract setback for buildings of 50 feet around the entire property. There shall be a minimum tract setback for driveways, roads, and parking areas of 25 feet around the entire property. This 25 foot setback is within the 50 foot tract setback.
4. Tract Width: The minimum tract width for Multi-Family Dwelling development shall be 300 feet at the Building Line.
5. Unit Width: Each Townhouse Dwelling Unit shall have a minimum width of twenty-six (26) feet. **[Amended by Ord. No. 2015-04]**
6. Building to Building Setbacks shall be no less than the following
  - Front to Front: 60 feet
  - Front to Rear: 60 feet
  - Side to Side: 30 Feet
  - Rear to Rear: 50 feet
7. Maximum number of units in one Townhouse building: six (6).
8. Maximum linear dimension of any Structure: 150 feet.
9. Building Setbacks: Each Townhouse Dwelling Unit shall be set back at least twenty-five (25) feet from all internal Streets, roadways, sidewalks, driveways or common parking areas. **[Amended by Ord. No. 2015-04]**
10. Common Open Space: A minimum of 30% Common Open Space shall be provided. Common Open Space shall comply with the Standards for Location and Management of Open Space as contained in Section 1504(D).

D. Mobile Home Parks

1. Minimum Tract Size.

Every tract to be subdivided or developed as a Mobile Home park shall have a Lot Area of not less than four (4) acres.

2. Density of development.

A Mobile Home park shall have a maximum density of five (5) Dwelling Units per Adjusted Acre.

3. Tract width.

Every tract to be developed as a Mobile Home park shall have a minimum width of two-hundred and fifty (250) feet.

4. Front Yard.

No Mobile Home unit shall be located within sixty (60) feet of a perimeter Street nor within twenty (20) feet of an internal roadway, driveway, or parking lot.

5. Side and Rear Yards.

No Mobile Home unit shall be located within sixty (60) feet of a side or rear boundary of the tract to be subdivided or developed, and no parking Lot shall be located within thirty (30) feet thereof.

6. Spacing requirements.

a. Each Mobile Home unit shall be situated on a Lot containing not less than six thousand (6,000) square feet in Lot Area nor fifty-five (55) feet in width.

b. Mobile Home units shall be sited on individual Lots so as to provide a useable Yard space in either the rear or one side of the Lot.

c. No unit shall be sited closer than twenty-five (25) feet to another unit nor five (5) feet from a side or rear Lot boundary of an individual Mobile Home Lot.

- d. Not less than twenty (20) percent of the tract, exclusive of required Yard setbacks, shall be Common Open Space useable for active or passive recreation by the residents of the Mobile Home park.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard nor within five (5) feet of a side or rear Lot boundary of an individual Mobile Home Lot. Tool or storage sheds may be placed at a Lot boundary if placed contiguous to another such building on the adjacent Lot.

8. Lot Coverage.

Not more than forty percent (40%) of a tract or individual Mobile Home Lot may be occupied by Mobile Home units, common driveways and parking areas, internal roads. Accessory Buildings, or other Impervious Cover. The remaining area shall be Green Area.

E. Other Uses

Any use permitted by Special Exception in accordance with §602(B) shall comply with the following area and bulk regulations:

1. Lot Area.

Every Lot shall have an Adjusted Lot Area of not less than two (2) acres, provided that, if the Lot does not abut on a Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimum Adjusted Lot Area of two (2) acres.

2. Lot Width

Each Lot shall have a width not less than two hundred (200) feet at the Building Line.

3. Lot Coverage.

Not more than ten (10) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

4. Front Yard

There shall be a Front Yard of not less than seventy-five (75) feet from the front Building Line to the Street Line or front Lot line.

5. Side Yards

For every principal building, there shall be two (2) Side Yards which shall be not less than eighty (80) feet in aggregate width and neither of which shall be less than thirty-five (35) feet in width.

6. Rear Yard.

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than sixty (60) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1812(B)2 shall apply.

7. Accessory Buildings and Structures.

No Accessory Buildings shall be situated within the Front Yard, nor within twenty (20) feet of any side or rear property line. Mailboxes, basketball backboards, lampposts, and similar Structures are permitted.

8. Height restriction.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

## **SECTION 604. DESIGN STANDARDS**

A. Single Family and Two-Family Dwellings

1. Parking.

As required by §1812(A)2 of this Ordinance.

2. Access and highway frontage.

As required by §1812(B)1 of this Ordinance.

- B. Multi-Family Dwellings and Mobile Home Parks
1. Parking.  
As required by §1812(A)2 of this Ordinance.
  2. Access and highway frontage.  
As required by §1812(B)1 of this Ordinance.
  3. Landscaping.  
As required by §1812(C) of this Ordinance.
  4. Screening.  
As required by §1812(D) of this Ordinance.
  5. Storage.  
As required by §1812(E) of this Ordinance.
  6. Interior circulation.  
As required by §1812(F) of this Ordinance.
  7. Lighting.  
As required by §1812(G) of this Ordinance.
- C. Uses by Special Exception.
1. Parking.  
As required by §1812(A)1 of this Ordinance.
  2. Access and highway frontage.  
As required by §1812(B) of this Ordinance.
  3. Landscaping.  
As required by §1812(C) of this Ordinance.

**ARTICLE VII-A**  
**VILLAGE COMMERCIAL DISTRICT (C-1)**

**SECTION 701. VILLAGE COMMERCIAL DISTRICT (C-1)**

- A. In addition to the general goals listed in the Purposes (Section 102) and Community Development Objectives (Section 103) of this Ordinance, the purposes of this Section are:
1. To provide sufficient space in village centers for commercial and service establishments compatible with a village setting;
  2. To protect such uses from intrusive, incompatible or objectionable influences such as noise, glare, and the hazards of fire;
  3. To provide appropriate space for such uses, including the provision of off-Street parking spaces and safe circulation of pedestrian and motor traffic;
  4. To strengthen the economic base of the Township.
  5. To protect the character of the village commercial and adjacent districts; and,
  6. To conserve the value of land and buildings.
- B. In the C-1 Village Commercial District all provisions of this Article shall apply.

**SECTION 702. USE REGULATIONS**

- A. Uses by Right

A Building or group of Buildings may be erected, altered or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other:

1. Single Family Dwelling
2. Two Family Dwelling

3. Retail store (including Gift, antique and handicraft shops, food store, drug store, appliance, furniture, dry goods store or similar store) or personal service shop (including barber shop, hairdresser, shoe repairing or similar shop) provided that the total floor area of the building does not exceed 2,000 square feet.
4. Group Care Homes in accordance with provisions of §1814.
5. Lot Averaging for Single Family residential subdivision in accordance with the provisions of Article XVI of this Ordinance.
6. Cluster Development for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance, provided that the tract to be developed shall be fifteen (15) acres or more in Gross Area.
7. Forestry, subject to the requirements of Section 1821.
8. Business, professional, governmental, financial and institutional offices, including Veterinary Clinics, provided that the total floor area of the building devoted to office use does not exceed 2,000 square feet.

B. Conditional Uses

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Retail store or personal service shop in a building with a total floor area in excess of 2,000 square feet, or a group of two (2) or more retail stores and/or personal service shops on the same Lot; provided that, no such store or shop shall be permitted in a building with a total floor area in excess of 5,000 square feet, unless the building meets the criteria of an Historic or Cultural Resource as defined in Section 2404 (Identification of Historic and Cultural Resources) of this Ordinance.
2. Business, professional, governmental, financial and institutional offices, including Veterinary Clinics, where the total floor area of the building devoted to office use exceeds 2,000 square feet; provided that, no such office use shall be permitted where the total floor area of the building devoted to office use exceeds 5,000 square feet, unless the building meets the criteria of an Historic or Cultural Resource as defined in Section 2404 (Identification of Historic and Cultural Resources) of this Ordinance.

3. Restaurants; Restaurants, Take Out.
4. Theaters (for live performances).
5. Intentionally omitted
6. Intentionally omitted
7. Museum, library, park, Church, community center or other educational, cultural or philanthropic use of a similar nature.
8. Industries involving the practice of a professional trade, such as blacksmith, tinsmith, plumber, carpenter, cabinet-maker, and similar trades.
9. Up to no more than two (2) self-contained Dwelling Units in a commercial building.
10. Child Day Care Center with a maximum of seventy-five (75) enrolled children, or as prescribed by state regulations, whichever is less, upon an Adjusted Lot Area of not less than two acres.
11. Nurseries and garden centers.
12. Church or School.
13. Bed and Breakfast operations in accordance with §1813 of this Ordinance.
14. Municipal use, such as a library or municipal building, and post office.

In addition to the requirements for Conditional Use approval set forth in §2008, and design standards specifically applicable to a proposed use, the Board of Supervisors, in evaluating an application for Conditional Use approval hereunder, shall be satisfied with the adequacy of water and sewer facilities, and provisions for off-Street parking and access and highway frontage. The Board of Supervisors shall have discretion to vary the parking requirements (either by increasing or decreasing) otherwise prescribed for the proposed use in §1812(A), where evidence presented at a Conditional Use hearing so justifies.

C. Accessory Uses.

The following Accessory Uses shall be permitted, provided they shall be incidental to any of the foregoing permitted uses:

1. Customary residential Accessory Uses, including private garage and greenhouse.
2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the frontal façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.
  - b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.
  - c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.
  - d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.
  - e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.

- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building and no stocking of finished products or inventory of a substantial nature shall be permitted on the property. No outside storage of finished goods or inventory of any kind shall be permitted.
- h. The appearance of the residential Structure shall not be altered nor the occupation within conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.
- i. There shall be no discharge of potentially dangerous effluent or fumes.
- j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally be used on a property of a homeowner not engaged in a Home Occupation.
- k. No equipment, process or other activities associated with the conduct of the Home Occupation shall be permitted which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of an attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver or other electronic equipment on a neighboring property.

- l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view from neighboring properties and Streets.
- 4. Day Care Homes may be permitted as a Home Occupation only within a single-Family Dwelling in accordance with provisions of §1815.
  - 5. Accessory Use customarily associated with and incidental to uses designated in §702(A), or §702(B).
  - 6. Accessory Dwelling Units in accordance with the provisions contained in §502(B)1. **[Amended by Ord. No. 2015-04]**

## **SECTION 703. AREA AND BULK REGULATIONS**

### **A. Single Family Residences**

Single Family residences shall conform to the following Area and Bulk Regulations:

#### **1. Lot Area and bulk regulations.**

Every Lot containing a Single Family residence shall have an Adjusted Lot Area of not less than 80,000 square feet if not served by both central water and sewer systems, or not less than 40,000 square feet if served by both central water and sewer systems; provided that if the Lot does not abut a Street or road, the Lot must be connected to a road or Street by a right-of-way or roadway at least 25 feet wide, which right-of-way or roadway shall be in addition to the minimal Adjusted Lot Area requirement.

2. Lots not serviced by central water and sewer systems.

A Lot not serviced by central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	80,000 square feet
Minimum Lot Width:	200 feet
Maximum Lot Coverage:	12%
Minimum Front Yard:	75 feet
Minimum Side Yard (aggregate):	75 feet
Minimum Rear Yard:	60 feet
Height	In accordance with Section 503(H)

Accessory Structures shall be located not less than twenty (20) feet from rear or side property lines.

3. Lots served by both central water and sewer systems.

A Lot served by both central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	40,000 square feet
Minimum Lot Width:	125 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	40 feet
Minimum Side Yard (aggregate):	50 feet aggregate, 20 feet min
Minimum Rear Yard:	50 feet
Height	In accordance with Section 503(H)

Accessory Structures shall be located not less than ten (10) feet from rear or side property lines.

4. Lots served by either central water or sewer systems.

A lot served by either central water or sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	60,000 square feet
Minimum Lot Width:	150 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	60 feet
Minimum Side Yard (aggregate):	50 feet aggregate, 20 feet minimum
Minimum Rear Yard:	50 feet
Height:	In accordance with Section 503(H)

Accessory Structures shall be located not less than ten (10) feet from rear or side property lines.

B. Two Family Dwellings (Duplexes or Twin Dwellings)

Two Family Dwellings shall conform to the following Area and Bulk Regulations:

1. Lot Area

Every Lot containing Twin or Duplex residences shall have an Adjusted Lot Area of not less than ten thousand (10,000) square feet per Family, provided that, if the Lot does not abut a road or Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimal adjusted Lot Area of ten thousand (10,000) square feet per Family.

2. Lot Width.

Every Lot containing Twin or Duplex residences shall have a minimum aggregate Lot Width for two Dwelling Units of one hundred twenty (120) feet.

3. Lot Coverage

Not more than thirty (30) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

4. Front Yard.

There shall be a Front Yard of not less than forty (40) feet from the front Building Line to the Street Line or front Lot line, where it fronts on a local residential Street, of sixty (60) feet where it fronts on an arterial, collector, or rural road.

5. Side Yards.

For every principal building containing two (2) Dwelling Units there shall be two (2) Side Yards, each of which shall be not less than fifteen (15) feet in width.

6. Rear Yard

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than fifty (50) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1810(B)1 shall apply.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard, nor within ten (10) feet of any side or rear property line.

8. Height restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

C. Commercial Uses

Every use permitted in §702(A)3 or authorized as a Conditional Use in §702(B) shall comply with the following Area and Bulk Regulations:

1. Lot Area.

Every Lot shall have an Adjusted Acreage of not less than 10,000 square feet.

2. Lot Width.

Every Lot shall have a width at the Building Line and at the Street Line of not less than sixty (60) feet.

3. Floor-Area Ratio.

The total floor area shall not exceed .20 of the Adjusted Acreage of the Lot for a one-Story Building, and .30 of the Adjusted Acreage of the Lot for a building of more than one Story. In no event shall a one-Story Building exceed 10,000 square feet in gross floor area, and 20,000 square feet for a building of more than one Story. However, the Board of Supervisors may authorize an increase in the maximum size of the Building, if the proposed development meets the following additional standards:

- a. The Board of Supervisors have determined that the proposed Building is consistent with the architectural nature of the Township; that the exterior architectural features of the Building that are seen from a public Street or way are shielded from surrounding residential uses; and that the general design, arrangement, height, texture, material, and color of the Building and the relation of such factors to similar features of Buildings in the area is consistent.
- b. At least 40% of the required and provided parking is placed to the rear of the Building, so that the view from the Street frontage, or in the case of multiple Street frontages, the principal frontage, is shielded by the Building and landscaped areas.
- c. A fire lane at least twenty (20) feet in width shall be provided around the entire building to be constructed, of either an approved all-weather surface or grass pavers, or a combination thereof.

4. Front Yard.

There shall be a Front Yard of not less than (20) feet from the front Building Line to the Street Line, within which no building or outdoor display shall be situated.

5. Side Yards.

There shall be Side Yards of not less than ten (10) feet each within which no buildings, gasoline pumps or outdoor displays shall be situated.

6. Rear Yard.

There shall be a Rear Yard of not less than twenty (20) feet within which no buildings, gasoline pumps or outdoor displays shall be situated.

7. Accessory Structures.

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

## 8. Height Restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

## 9. Lot Coverage.

No more than fifty-five percent (55%) of the Adjusted Acreage of any Lot, may be occupied by buildings, the paved portion of parking areas, driveways, and other Impervious Cover. The remainder of any shall be Green Area.

## **SECTION 704. DESIGN STANDARDS**

## A. Single Family and Two-Family Residences

## 1. Parking.

As required by §1812(A)2 of the Ordinance.

## 2. Access and Highway Frontage.

As required by §1812(B)1 of this Ordinance.

## B. Nonresidential Uses by Right and by Conditional Use.

## 1. Parking.

As required by §1812(A)1 of this Ordinance.

## 2. Access and Highway Frontage.

As required by §1812(B) of this Ordinance.

## 3. Landscaping.

As required by §1812(C) of this Ordinance.

4. Screening.  
As required by §1812(D) of this Ordinance.
5. Storage.  
As required by §1812(E) of this Ordinance.
6. Interior Circulation.  
As required by §1812(F) of this Ordinance.
7. Lighting.  
As required by §1812(G) of this Ordinance.
8. Loading.  
As required by §1812(H) of this Ordinance.

## **ARTICLE VII WILLOWDALE MULTIPLE USE DISTRICT (WMU)**

### **SECTION 751. WILLOWDALE MULTIPLE USE DISTRICT (WMU)**

- A. In addition to the general goals listed in the Purposes (Section 102) and Community Development Objectives (Section 103) of this Ordinance, the purposes of this Section are:
1. To provide sufficient space in village centers for commercial and service establishments and for higher density residential development compatible with a village setting and;
  2. To protect such uses from intrusive, incompatible, or objectionable influences such as noise, glare, and the hazards of fire;
  3. To provide appropriate space for such uses, including the provision of off-Street parking spaces and safe circulation of pedestrian and motor traffic;
  4. To strengthen the economic base of the Township;
  5. To provide a range of housing options in the Township;
  6. To protect the character of the village commercial and adjacent districts; and;
  7. To conserve the value of land and buildings.
- B. In the WMU District all provisions of this Article shall apply.

### **SECTION 752. USE REGULATIONS**

- A. Uses by Right.

A Building or group of Buildings may be erected, altered or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other:

1. Single Family Dwelling.
2. Two Family Dwelling, when served by central water and sewer.
3. Multi-Family Dwelling, when served by central water and sewer.
4. Retail store (including Gift, antique and handicraft shops, food store, drug store, appliance, furniture, dry goods store or similar store) or personal service shop (including barber shop, hairdresser, shoe repairing or similar shop) provided that the total floor area of the building does not exceed 2,000 square feet.
5. Group Care Homes in accordance with provisions of §1814.
6. Lot Averaging for Single Family residential subdivision in accordance with the provisions of Article XVI of this Ordinance.
7. Cluster Development for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance, provided that the tract to be developed shall be fifteen (15) acres or more in Gross Area.
8. Forestry, subject to the requirements of Section 1821.
9. Business, professional, governmental, financial and institutional offices, including Veterinary Clinics, provided that the total floor area of the building devoted to office use does not exceed 2,000 square feet.
10. A portable stand for the sale of locally grown fresh produce; provided that such stand shall be dismantled or removed at the end of the growing season and that parking spaces for at least six (6) cars shall be provided behind the Street Line for such use.

B. Conditional Uses

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Retail store or personal service shop in a building with a total floor area in excess of 2,000 square feet, or a group of two (2) or more retail stores and/or personal service shops on the same Lot; provided that, no such store or shop shall be permitted in a building with a total floor area in

excess of 5,000 square feet, unless the building meets the criteria of an Historic or Cultural Resource as defined in Section 2404 (Identification of Historic and Cultural Resources) of this Ordinance.

2. Business, professional, governmental, financial and institutional offices, including Veterinary Clinics, where the total floor area of the building devoted to office use exceeds 2,000 square feet; provided that, no such office use shall be permitted where the total floor area of the building devoted to office use exceeds 5,000 square feet, unless the building meets the criteria of an Historic or Cultural Resource as defined in Section 2404 (Identification of Historic and Cultural Resources) of this Ordinance.
3. Restaurants; Restaurants, Take Out.
4. Theaters for live performances having a seating capacity of not more than 200 people.
5. Intentionally Omitted
6. Event Space for functions of not more than 300 attendees.
7. Museum, library, park, Church, community center or other educational, cultural or philanthropic use of a similar nature.
8. Industries involving the practice of a professional trade, such as blacksmith, tinsmith, plumber, carpenter, cabinet-maker, and similar trades.
9. Up to no more than two (2) self-contained Dwelling Units in a commercial building.
10. Child Day Care Center with a maximum of seventy-five (75) children, or as prescribed by state regulations, whichever is less, upon an Adjusted Lots Area of not less than two acres.
11. Nurseries and garden centers.
12. School
13. Bed and Breakfast operations in accordance with §1813 of this Ordinance.
14. Municipal use, such as a library or municipal building, and post office.

In addition to the requirements for Conditional Use approval set forth in §2008, and design standards specifically applicable to a proposed use, the Board of Supervisors, in evaluating an application for Conditional Use approval hereunder, shall be satisfied with the adequacy of water and sewer facilities, and provisions for off-Street parking and access and highway frontage. The Board of Supervisors shall have discretion to vary the parking requirements (either by increasing or decreasing) otherwise prescribed for the proposed use in §1812(A), where evidence presented at a Conditional Use hearing so justifies.

C. Accessory Uses.

The following Accessory Uses shall be permitted, provided they shall be incidental to any of the foregoing permitted uses:

1. Customary residential Accessory Uses, including private garage and greenhouse.
2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the front façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.
  - b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.
  - c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.

- d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.
- e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.
- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building and no stocking of finished products or inventory of a substantial nature shall be permitted on the property. No outside storage of finished goods or inventory of any kind shall be permitted.
- h. The appearance of the residential Structure or Accessory Building shall not be altered nor the occupation within conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.
- i. There shall be no discharge of potentially dangerous effluent or fumes.
- j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally be used on a property of a homeowner not engaged in a Home Occupation.

- k. No equipment or process shall be used in the conduct of the Home Occupation which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of a Multi-Family or attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver of a neighboring property.
  - l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view of neighboring properties and Streets.
- 4. Day Care Homes may be permitted as a Home Occupation only within a single-Family Dwelling in accordance with provisions of §1815.
  - 5. Accessory Use customarily associated with and incidental to uses designated in §752(A), or §752(B).
  - 6. Accessory Dwelling Units in accordance with the provisions contained in §502(B)1. **[Amended by Ord. No. 2015-04]**

## **SECTION 753. AREA AND BULK REGULATIONS**

### **A. Single Family Residences**

Single Family residences shall conform to the following Area and Bulk Regulations:

1. Lot Area and bulk regulations.

Every Lot containing a Single Family residence shall have an Adjusted Lot Area of not less than 40,000 square feet if not served by both central water and sewer systems, or not less than 10,000 square feet if served by both central water and sewer systems; provided that if the Lot does not abut on a Street or road, the Lot must be connected to a road or Street by a right-of-way or roadway at least 25' wide, which right-of-way or roadway shall be in addition to the minimum Adjusted Lot Area requirement.

2. Lots not serviced by central water and sewer systems.

Minimum Adjusted Lot Area:	40,000 square feet
Minimum Lot Width:	125 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	40 feet
Minimum Side Yard (aggregate):	50 feet aggregate, 20 feet minimum
Minimum Rear Yard:	50 feet
Height	In accordance with Section 503(H)

Accessory Structures shall be located not less than ten (10) feet from rear or side property lines.

3. Lots served by both central water and sewer systems.

Minimum Adjusted Lot Area:	10,000 square feet
Minimum Lot Width:	60 feet
Maximum Lot Coverage:	40%
Minimum Front Yard:	30 feet
Minimum Side Yard (aggregate):	10 feet each
Minimum Rear Yard:	40 feet
Height:	In accordance with Section 503(H)

B. Two Family Dwellings (Duplexes or Twin Dwellings)

Two Family Dwellings shall conform to the following Area and Bulk Regulations:

1. Lot Area

Every Lot containing Twin or Duplex residences shall have an Adjusted Lot Area of not less than ten thousand (10,000) square feet per Family,

provided that, if the Lot does not abut a road or Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimum Adjusted Lot Area of ten thousand (10,000) square feet per Family.

2. Lot Width.

Every Lot containing Twin or Duplex residences shall have a minimum aggregate Lot Width for two Dwelling Units of one hundred twenty (120) feet.

3. Lot Coverage

Not more than thirty (30) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

4. Front Yard.

There shall be a Front Yard of not less than forty (40) feet from the front Building Line to the Street Line or front Lot line, where it fronts on a local residential Street, of sixty (60) feet where it fronts on an arterial, collector, or rural road.

5. Side Yards.

For every principal building containing two (2) Dwelling Units there shall be two (2) Side Yards, each of which shall be not less than fifteen (15) feet in width.

6. Rear Yard

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than forty (40) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1810(B)1 shall apply.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard, nor within ten (10) feet of any side or rear property line.

8. Height restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

C. Multi-Family Dwellings

Multi-Family Dwellings shall conform to the following Area and Bulk Regulations:

1. Density and Unit Width.

The maximum density for Townhouse development shall be five (5) Dwelling Units per Adjusted Acre. The maximum density for Apartment Buildings shall be six (6) Dwelling Units per Adjusted Acre. Each Townhouse Dwelling Unit shall have a minimum width of twenty-six (26) feet. **[Amended by Ord. No. 2015-04]**

2. Tract Size.

Every tract to be subdivided or developed for Multi-Family Dwellings shall have an Adjusted Lot Area of not less than two (2) acres. **[Amended by Ord. No. 2015-04]**

3. Tract Width.

Every tract to be subdivided or developed with Multi-Family Dwellings shall have a minimum width of one hundred and fifty (150) feet.

4. Tract Coverage.

The maximum Impervious Coverage, including the area occupied by buildings, the paved portions of parking areas, driveways and other Impervious Coverage, shall not exceed a portion of the tract equal to the sum of (i) 34,848 square feet (40% of two acres) plus (ii) twenty-five percent (25%) of the remainder of the Adjusted Acreage of the tract over and above two (2) acres. The remainder of the tract shall be Green Area.

5. Tract Setbacks.

Each Townhouse Dwelling Unit and any common parking area shall be set back at least thirty (30) feet from all perimeter Streets and the front or rear boundary of the tract to be subdivided or developed, and at least

twenty (20) feet from either side boundary of such tract. **[Amended by Ord. No. 2015-04]**

6. Building Setbacks.

Each Townhouse Dwelling Unit shall be set back at least twenty five (25) feet from all internal Streets, roadways, sidewalks, driveways or common parking areas. **[Amended by Ord. No. 2015-04]**

7. Building and Unit Limitations.

The maximum number of Dwelling Units in one Townhouse building shall be six (6). The maximum number of Dwelling Units in one Apartment Building or attached group of Apartment Buildings shall be eight (8), and no Apartment Building shall be more than one hundred fifty (150) feet without a break in its façade, nor contain more than six thousand (6,000) square feet of floor area on a single floor. **[Amended by Ord. No. 2015-04]**

8. Spacing Requirements

The minimum distance between buildings shall be as follows:

- a. For a front-to-front, front-to-rear, or rear-to-rear orientation: two (2) times the height of the taller building, but not less than sixty (60) feet, exclusive of parking areas, common driveways, or internal Streets.
- b. For a front-to-side or rear-to-side orientation: two (2) times the height of the taller building, but not less than forty (40) feet, exclusive of parking areas, common driveways, or internal Streets.
- c. For a side-to-side orientation: the height of the taller building, but not less than twenty (20) feet, exclusive of parking areas, driveways, or internal Streets.

9. Accessory Structures.

No Accessory Structures shall be situated within the required Front Yard nor within ten (10) feet of any side or rear property line.

10. Height restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

D. Commercial Uses

Every use permitted in §752(A)4 or authorized as a Conditional Use in §752(B) shall comply with the following Area and Bulk Regulations:

1. Lot Area.

Every Lot shall have an Adjusted Acreage of not less than 10,000 square feet.

2. Lot Width.

Every Lot shall have a width at the Building Line and at the Street Line of not less than sixty (60) feet.

3. Floor-Area Ratio.

The total floor area shall not exceed .20 of the Adjusted Acreage of the Lot for a one Story building, and .30 of the Adjusted Acreage of the Lot for a building of more than one Story. In no event shall a one-story building exceed 10,000 square feet in gross floor area and 20,000 square feet for a building of more than one Story. However, the Board of Supervisors may authorize an increase in the maximum size of the building, if the proposed development meets the following additional standards:

- a. The Board of Supervisors have determined that the proposed building is consistent with the architectural nature of the Township; that the exterior architectural features of the Building that are seen from a public Street or way are shielded from surrounding residential uses; and that the general design, arrangement, height, texture, material, and color of the Building and the relation of such factors to similar features of Buildings in the area is consistent.
- b. At least 40% of the required and provided parking is placed to the rear of the Building, so that the view from the Street frontage, or

in the case of multiple Street frontages, the principal frontage, is shielded by the Building and landscaped areas.

- c. A fire lane at least twenty (20) feet in width shall be provided around the entire building to be constructed, of either an approved all-weather surface or grass pavers, or a combination thereof.

4. Front Yard.

There shall be a Front Yard of not less than twenty (20) feet from the front Building Line to the Street Line, within which no building or outdoor display shall be situated.

5. Side Yards.

There shall be Side Yards of not less than ten (10) feet each within which no buildings, gasoline pumps or outdoor displays shall be situated.

6. Rear Yard.

There shall be a Rear Yard of not less than twenty (20) feet within which no buildings, gasoline pumps or outdoor displays shall be situated.

7. Accessory Structures.

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

8. Height Restrictions.

No Structure shall exceed three (3) stories of thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

9. Lot Coverage.

For Lots having an Adjusted Acreage of two (2) acres or less, no more than fifty-five percent (55%) of the Adjusted Acreage of the Lot may be occupied by buildings, the paved portion of parking areas, driveways, and other Impervious Coverage. For Lots having an Adjusted Acreage of more than two (2) acres, the maximum Impervious Coverage as above defined shall be based upon a calculation of (i) 47,916 square feet (55% of two (2) acres of the Adjusted Acreage) plus (ii) twenty-five percent (25%) of the

remainder of Adjusted Acreage over and above (2) acres of the Adjusted Acreage. In each case, the remainder of any Lot shall be Green Area.

## **SECTION 754. DESIGN STANDARDS**

### **A. Single Family, Two-Family, and Multi-Family Residences**

#### **1. Parking.**

As required by §1812(A)2 of the Ordinance.

#### **2. Access and Highway Frontage.**

As required by §1812(B)1 of this Ordinance.

#### **3. Every tract of two (2) acres or more to be subdivided or developed with Two Family or Multi-Family Dwelling Units shall comply with the site planning requirements for Landscaping and Buffers, Access and Highway Frontage, Interior Circulation, and Conservation of Trees and Natural Features, set forth in Sections 1504(C)9, 1812(B), 1812(C), 1812(D), 1812(E), 1812(F) and 1822 of this Ordinance.**

### **B. Nonresidential Uses by Right and by Conditional Use.**

#### **1. Parking.**

As required by §1812(A)1 of this Ordinance.

#### **2. Access and Highway Frontage.**

As required by §1812(B) of this Ordinance.

#### **3. Landscaping.**

As required by §1812(C) of this Ordinance.

#### **4. Screening.**

As required by §1812(D) of this Ordinance.

#### **5. Storage.**

As required by §1812(E) of this Ordinance.

6. Interior Circulation.

As required by §1812(F) of this Ordinance.

7. Lighting.

As required by §1812(G) of this Ordinance.

8. Loading.

As required by §1812(H) of this Ordinance.

## **ARTICLE VIII HIGHWAY COMMERCIAL DISTRICT (C-2)**

### **SECTION 801. HIGHWAY COMMERCIAL DISTRICT (C-2)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
1. To provide for sufficient clusters of retail and office development to serve as convenient, aesthetically pleasing, and pedestrian sensitive areas for shopping and other nonresidential uses appropriate to East Marlborough Township.
  2. To provide for design standards that will protect the value of existing and proposed nonresidential uses, while maintaining the integrity of surrounding residential uses that might be proximate to C-2 lands.
  3. To protect commercial development against objectionable influences such as noise or glare and from hazards of fire;
  4. To provide appropriate space for the requirements of present-day merchandising, including the provision of off-Street parking spaces and safe circulation of pedestrian and motor traffic;
  5. To maintain and improve the visual quality of Streetscapes through the preservation of an enhancement of the community character. Provide for pedestrian linkages with other existing and proposed commercial or residential areas.
  6. To promote stable highway-related commercial development, strengthening the economic base of the municipality;
  7. To protect the character of the commercial area and nearby districts; and
  8. To conserve the value of land and buildings.
- B. In the C-2 Highway Commercial district, all regulations of this Article shall apply.

**SECTION 802. USE REGULATIONS****A. Uses by Right**

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used by right for any of the following purposes and for no other:

1. Retail store (including Gift, antique and handicraft shops, food store, drug store, appliance, furniture, dry goods store or similar store) or personal service shop (including barber shop, hairdresser, shoe repairing or similar shop) provided that the total floor area of the building does not exceed 2,000 square feet.
2. Group Care Homes in accordance with provisions of §1814.
3. Forestry, subject to the requirements of Section 1821.

**B. Uses by Special Exception****RESERVED****C. Conditional Uses**

1. Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.
  - a. Retail store or personal service shop having in a building an excess of 2,000 square feet of floor area, or a group of two (2) or more retail stores and/or personal service shops on the same Lot.
  - b. Funeral home.
  - c. Laundry or dry-cleaning establishment.
  - d. Museum, library, park, Church, community center or other educational, cultural or philanthropic use of a similar nature.
  - e. Industries involving the practice of a professional trade, such as blacksmith, tinsmith, plumber, carpenter, cabinet-maker, and similar trades.

- f. Intentionally omitted
- g. Child Day Care Center with a maximum of seventy-five (75) children, or as prescribed by state regulations, whichever is less, upon an Adjusted Lot Area of not less than two acres.
- h. Educational or religious uses.
- i. Bed and Breakfast operations in accordance with §1813 of this Ordinance.
- j. Municipal use, such as a library or municipal building, and post office.
- k. Theater or other place of amusement.
- l. Gasoline Service Station, public garage, automobile repair shop, or car wash, or automobile sales agency provided that no such use shall include salvaging, wrecking, or storing of abandoned or junked vehicles or equipment.
- m. Retail-oriented, speed-printing establishment.
- n. Factory outlet or showroom-type retail outlet, such as furniture, appliance, or automobile sales.
- o. Intentionally omitted
- p. Restaurant; Restaurant, Take Out; Restaurant, Drive-In; Tavern; subject to the additional requirements contained in §804(A)9.
- q. Hotels, Motels, Event Space, and tourist reception areas, except that the minimum Lot Area is 3 acres, and the minimum Lot Width is 200 feet.
- r. Kennels.
- s. Business, professional, governmental offices, institutional offices, Veterinary Clinics, and financial institutions including those with drive-in banking facilities.

- t. Indoor and outdoor commercial recreational uses such as health clubs, spas, gymnasiums, basketball, tennis and racquetball courts.
  - u. Assisted Living Facilities or Rehabilitation Facilities.
  - v. Nurseries and garden centers.
  - w. Cemeteries and mausoleums.
  - x. Hospitals, medical clinics, correctional or penal institutions (including half-way houses), educational or religious uses.
  - y. Billboard Signs, in compliance with the requirements of Section 1707 of this Ordinance.
2. In addition to the requirements for Conditional Use approval set forth in §2008 and design standards specifically applicable to a proposed use, the Board of Supervisors, in evaluating an application for Conditional Use approval hereunder, shall be satisfied with the adequacy of water and sewer facilities, and provisions for off-Street parking and access to highway frontage. The Board of Supervisors shall have discretion to vary the parking requirements (either by increasing or decreasing) otherwise prescribed for the proposed use in §1812(A)1b, where evidence presented at a Conditional Use hearing so justifies. The burden of proof shall be upon the party requesting the Board of Supervisors to vary the parking requirements and such party shall demonstrate by clear and convincing evidence that the change is justified.

#### D. Accessory Uses

The following Accessory Uses shall be permitted, provided that they shall be incidental to any of the foregoing permitted uses.

- 1. Customary Accessory Uses, including a private garage or private greenhouse.
- 2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the front façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.

3. Day Care Homes may be permitted as a Home Occupation only within a single-Family Dwelling in accordance with provisions of §1815.
4. Accessory Uses customarily associated with and incidental to uses designated in §802(A), §802(B), or §802(C).

## **SECTION 803. AREA AND BULK REGULATIONS**

### **A. Commercial Uses**

Every use permitted in §802(A) or authorized as a Conditional Use in §802(C) shall comply with the following Area and Bulk Regulations:

#### **1. Lot Area.**

Every Lot shall have an Adjusted Acreage of not less than 30,000 square

#### **2. Lot Width.**

Every Lot shall have a width at the Building Line and at the Street Line of not less than one hundred (100) feet.

#### **3. Floor-area Ratio.**

The total floor area shall not exceed .20 of the Adjusted Acreage of the Lot for a one Story Building, and .30 of the Adjusted Acreage of the Lot for a building of more than one Story. In no event shall a one-Story building exceed 50,000 square feet in gross floor area, and 100,000 square feet for a building of more than one Story. However, the Board of Supervisors may authorize an increase in the maximum size of the building, if the proposed development meets the following additional standards:

- a. The Board of Supervisors have determined that the proposed building is consistent with the architectural nature of the Township; that the exterior architectural features of the Building that are seen from a public Street or way are shielded from surrounding residential uses; and that the general design, arrangement, height, texture, material, and color of the Building and the relation of such factors to similar features of Buildings in the area is consistent.

- b. At least 40% of the required and provided parking is placed to the rear of the Building, so that the view from the Street frontage, or in the case of multiple Street frontages, the principal frontage, is shielded by the Building and landscaped areas.
- c. A fire lane at least twenty (20) feet in width shall be provided around the entire building to be constructed, of either an approved all-weather surface or grass pavers, or a combination thereof.

4. Front Yard.

There shall be a Front Yard of not less than fifty (50) feet from the front Building Line to the Street Line, within which no building, gasoline pumps or outdoor displays shall be situated. In the case of Lots fronting on Route 1, a Front Yard of not less than sixty (6) feet from the front Building Line to the Street shall be provided.

5. Side Yards.

There shall be Side Yards of not less than twenty (20) feet each within which no buildings, gasoline pumps or outdoor displays shall be situated. For buildings in excess of one Story, each Side Yard setback shall increase by five (5) feet per Story. Where a C-2 use abuts an RB Residential District, each Side Yard setback shall comply with the increased Buffer requirements of Section 1812(D)2.

6. Rear Yard.

There shall be a Rear Yard of not less than twenty (20) feet within which no buildings, gasoline pumps or outdoor displays shall be situated. For buildings in excess of one Story, the Rear Yard setback shall increase by five (5) feet per Story. Where a C-2 use abuts an RB Residential District, the Rear Yard setback shall comply with the increased Buffer requirements of Section 1812(D)2.

7. Accessory Structures.

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

8. Height Restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

9. Lot Coverage.

Not more than fifty-five (55) percent of the Adjusted Acreage of any Lot, may be occupied by buildings, the paved portion of parking areas, driveways, and other Impervious Cover. The remainder of any Lot shall be Green Area.

## **SECTION 804. DESIGN STANDARDS**

A. Commercial Uses by Right and by Conditional Use

1. Parking.

As required by §1812(A)1 of this Ordinance.

2. Access and Highway Frontage.

As required by §1812(B) of this Ordinance.

3. Landscaping.

As required by §1812(C) of this Ordinance.

4. Screening.

As required by §1812(D) of this Ordinance.

5. Storage.

As required by §1812(E) of this Ordinance.

6. Interior Circulation.

As required by §1812(F) of this Ordinance.

7. Lighting.

As required by §1812(G) of this Ordinance.

8. Loading.

As required by §1812(H) of this Ordinance.

9. Additional requirements for a Restaurant, Drive-In:

- a. The use must have direct access to a principal arterial (Route 1). Common driveway entry points with surrounding land uses are to be utilized whenever possible.
- b. There shall be only one point of ingress and one point of egress to the principal arterial.
- c. When a drive-in window is proposed, a stacking lane shall be provided to serve a minimum of ten cars. The stacking lane shall not be used for parking Lot circulation aisles, nor shall it in any way conflict with through circulation or parking.
- d. All such Restaurants shall provide a trash storage area which is designed and constructed to be screened from the Street and adjacent properties, to prevent trash from blowing from the area, and to permit safe and easy removal.
- e. No event shall a proposed Restaurant, Drive-In be located with one-thousand five hundred (1,500) feet of another Restaurant, Drive-In.

## **ARTICLE IX MULTIPLE USE DISTRICT (MU)**

### **SECTION 901. MULTIPLE USE DISTRICT (MU)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
1. To provide spaces in appropriate locations for certain uses permitted in both the R-M and C-2 districts, and
  2. To serve the goals specified in §601 and §801 of this Ordinance, where such uses are compatible with each other and do not adversely affect the use of the neighboring properties.

### **SECTION 902. USE REGULATIONS**

- A. Uses by Right

A Building or group of Buildings may be erected, altered or used, and a Lot or premises may be used by right for any of the following purposes and for no other.

1. Single Family detached Dwelling
2. Two Family Dwelling, when served by central water and sewer systems.
3. Multi-Family Dwelling, when served by central water and sewer systems.
4. Group Care Homes in accordance with provisions of Section 1814.
5. Lot Averaging for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance.
6. Cluster Development for Single Family residential subdivisions in accordance with the provisions of Article XVI of this Ordinance, provided that the tract to be developed shall be fifteen (15) acres or more in Gross Area.

7. Retail store (including Gift, antique and handicraft shops, food store, drug store, appliance, furniture, dry goods store or similar store) or personal service shop (including barber shop, hairdresser, shoe repairing or similar shop) provided that the total floor area of the building does not exceed 2,000 square feet.
8. Forestry, subject to the requirements of Section 1821.

B. Uses by Special Exception

Any of the following uses shall be permitted as a Special Exception when authorized by the Zoning Hearing Board, subject to the standards of §2109 of this Ordinance.

1. Educational or religious uses, except for an Assisted Living Facility, a Rehabilitation Facility, a correctional or penal institution, or a half-way house.
2. Boarding, Lodging, or Rooming House.

C. Conditional Uses

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Mobile Home park, when served by central water and sewer systems.
2. Retail store or personal service shop having in a building an excess of 2,000 square feet of floor area, or a group of two (2) or more retail stores and/or personal service shops on the same Lot.
3. Retail-oriented, speed-printing establishment.
4. Factory outlet or showroom-type retail outlet, such as furniture, appliance, or automobile sales.
5. Restaurant; Restaurant, Take Out; Tavern.
6. Hotels, Motels, Event Space, and tourist reception areas, except that the minimum Lot Area is 3 acres, and the minimum Lot Width is 200 feet.
7. Laundry or dry-cleaning establishment.

8. Business, professional, governmental, financial and institutional offices, including those with drive-in banking facilities, Veterinary Clinics.
9. Museum, library, park, Church, community center or other educational, cultural or philanthropic use of a similar nature.
10. Municipal use, such as a library or municipal building, and post office.
11. Industries involving the practice of a professional trade, such as blacksmith, tinsmith, plumber, carpenter, cabinet-maker, and similar trades.
12. Intentionally omitted
13. Child Day Care Center with a maximum of seventy-five (75) children, or as prescribed by state regulations, whichever is less, upon an Adjusted Lot Area of not less than two acres.
14. Bed and Breakfast operations in accordance with §1813 of this Ordinance.
15. Theater or other place of amusement.
16. Gasoline Service Station, public garage, automobile repair shop, or car wash, or automobile sales agency provided that no such use shall include salvaging, wrecking, or storing of abandoned or junked vehicles or equipment.
17. Intentionally omitted
18. Kennels.
19. Indoor and outdoor commercial recreational uses such as health clubs, spas, gymnasiums, basketball, tennis and racquetball courts.
20. Assisted Living Facilities and Rehabilitation Facilities.
21. Hospitals, medical clinics, correctional or penal institutions (including halfway houses), educational or religious uses.
22. Nurseries and garden centers.
23. Cemeteries and mausoleums.

24. Funeral home.
25. Billboard Signs, in compliance with the requirements of Section 1707 of this Ordinance.

D. Accessory Uses

The following Accessory Uses shall be permitted, provided that they shall be incidental to any of the preceding permitted uses:

1. Customary residential Accessory Uses, including a private garage or greenhouse.
2. Swimming Pool, tennis court, or paddle tennis court, provided that it is located behind the front façade of the house and Building Line and is set back at least fifty (50) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
3. Home Occupations, provided that:
  - a. Such Home Occupation shall be located in a Dwelling in which the practitioner resides, or in a Building accessory thereto, and such Home Occupation shall be compatible with the residential use of the property and the surrounding residential uses.
  - b. Such use shall not occupy more than fifty percent (50%) of the floor area of the first floor and, except in the case of a home office or other use that is not accessible to clients of the practitioner, shall not be located above the first floor of the Dwelling. Such use may occupy up to one hundred percent (100%) of a pre-existing Accessory Building.
  - c. There shall be no more than one (1) employee or associate at any one specific time who is not an immediate family member of the practitioner. Except in the case of child day care otherwise permitted in this Ordinance, there shall be no more than three (3) clients or customers (including students) at any one specific time.
  - d. Such use shall not generate any substantial traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to and from the property, in excess of that normally associated with a residential use in the District.

- e. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the District.
- f. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each employee, plus one (1) additional off-Street parking space for each four hundred (400) square feet of space occupied by the Home Occupation, providing however that a total of no more than six (6) off-Street parking spaces shall be permitted on one (1) Lot. Off-Street parking spaces are not permitted in Front Yards nor closer than fifty (50) feet to the Street right-of-way.
- g. No goods shall be displayed so as to be visible from outside of the building and no stocking of finished products or inventory of a substantial nature shall be permitted on the property. No outside storage of finished goods or inventory of any kind shall be permitted.
- h. The appearance of the residential Structure or Accessory Building shall not be altered nor the occupation within conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows, advertising visible outside the premises to attract customers or clients, or any similar Alteration or display. Signs in accordance with §1703 of this Ordinance shall be permitted.
- i. There shall be no discharge of potentially dangerous effluent or fumes.
- j. There shall be no production or storage of any material designed for use as an explosive or any other hazardous material or chemical, excluding such quantity of materials as might normally be used on a property of a homeowner not engaged in a Home Occupation.

- k. No equipment, process or other activities associated with the conduct of the Home Occupation shall be permitted which creates noise, vibration, glare, smoke, fumes, odors, dust, electrical interference, or other objectionable effects perceptible at or beyond the Lot boundaries, or, in the case of a Multi-Family or attached Dwelling Unit, off the premises of the Dwelling or unit. No equipment or process shall be used which creates visible or audible interference in any radio or television receiver or other electronic equipment on a neighboring property.
  - l. No business vehicle other than a pick-up truck or small van shall be parked on the property, and any Sign or lettering on such vehicle shall not indicate the location of the business.
  - m. There shall be no sale, or storage for sale, of firearms, weapons, ammunition, or chemical, biological or explosive agents on the premises.
  - n. No more than one (1) business vehicle may be parked on the property on a regular basis. Any trucks, vans, or business vehicles shall have a loading capacity not in excess of two (2) tons. The business vehicle shall be parked in an enclosed Structure or in an area screened from view from neighboring properties and Streets.
- 4. Day Care Homes may be permitted as a Home Occupation only within a single-Family Dwelling in accordance with provisions of §1815.
  - 5. Accessory Use customarily associated with and incidental to uses designated in Sections 902(A), 902(B), or 902(C) of this Ordinance. **[Amended by Ord. No. 2015-04]**

### **SECTION 903. AREA AND BULK REGULATIONS**

The following area and bulk regulations shall apply to uses permitted in 902(A)1-6, 902(B), and 902(C)1:

- A. Single Family Residences
  - 1. Lot Area and bulk regulations.

Every Lot containing a Single Family residence shall have an Adjusted Lot Area of not less than 80,000 square feet if not served by both central water and sewer systems, or not less than 40,000 square feet if served by both central water and sewer systems; provided that if the Lot does not abut a Street or road, the Lot must be connected to a road or Street by a right-of-way or roadway at least 25 feet wide, which right-of-way or roadway shall be in addition to the minimum Adjusted Lot Area requirement.

2. Lots not serviced by central water and sewer systems.

A Lot not serviced by central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	80,000 square feet
Minimum Lot Width:	200 feet
Maximum Lot Coverage:	12%
Minimum Front Yard:	75 feet
Minimum Side Yard (aggregate):	75 feet
Minimum Rear Yard:	60 feet
Height	In accordance with Section 503(H)

Accessory Structures shall be located not less than twenty (20) feet from rear or side property lines.

3. A Lot served by both central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	40,000 square feet
Minimum Lot Width:	125 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	40 feet
Minimum Side Yard (aggregate):	50 feet aggregate, 20 feet min
Minimum Rear Yard:	50 feet
Height	In accordance with Section 503(H)

Accessory Structures shall be located not less than ten (10) feet from rear or side property lines.

4. Lots served by either central water or sewer systems.

A Lot served by either central water or sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	60,000 square feet
Minimum Lot Width:	150 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	60 feet
Minimum Side Yard (aggregate):	50 feet aggregate, 20 feet minimum
Minimum Rear Yard:	50 feet
Height:	In accordance with Section 503(H)

Accessory Structures shall be located not less than ten (10) feet from rear or side property lines.

B. Two Family Dwellings (Duplex or Twin Dwellings)

1. Lot Area

Every Lot containing Twin or Duplex residences shall have an Adjusted Lot Area of not less than ten thousand (10,000) square feet per Family, provided that, if the Lot does not abut a road or Street, the Lot must be connected to a road or Street by a right-of-way or roadway at least twenty-five (25) feet wide, which right-of-way or roadway shall be in addition to the minimal adjusted Lot Area of ten thousand (10,000) square feet per Family.

2. Lot Width.

Every Lot containing Twin or Duplex residences shall have a minimum aggregate Lot Width for two Dwelling Units of one hundred twenty (120) feet.

3. Lot Coverage

Not more than thirty (30) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

4. Front Yard.

There shall be a Front Yard of not less than forty (40) feet from the front Building Line to the Street Line or front Lot line, where it fronts on a local residential Street, of sixty (60) feet where it fronts on an arterial, collector, or rural road.

5. Side Yards.

For every principal building containing two (2) Dwelling Units there shall be two (2) Side Yards, each of which shall be not less than fifteen (15) feet in width.

6. Rear Yard

For every principal building, there shall be a Rear Yard on each Lot which shall be not less than fifty (50) feet in depth, unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1810(B)1 shall apply.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard, nor within ten (10) feet of any side or rear property line.

8. Height restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

C. Multi-Family Dwellings

1. Minimum Tract Size: Every tract to be subdivided or developed for Multi-Family Dwellings shall have an Adjusted Lot Area of not less than four (4) acres. **[Amended by Ord. No. 2015-04]**

2. Density: The maximum density for Townhouse development shall be five (5) Dwelling Units per Adjusted Acre, and the maximum density for Apartment Buildings shall be seven (7) Dwelling Units per Adjusted Acre. **[Amended by Ord. No. 2015-04]**

3. Tract Setback: There shall be a minimum tract setback for buildings of 50 feet around the entire property. There shall be a minimum tract setback for driveways, roads, and parking areas of 25 feet around the entire property. This 25 foot setback is within the 50 foot tract setback.

4. Tract Width: The minimum tract width for Multi-Family Dwelling development shall be 300 feet at the Building Line.

5. Unit Width. Each Townhouse Dwelling Unit shall have a minimum width of twenty-six (26) feet. **[Amended by Ord. No. 2015-04]**
6. Building to Building Setbacks shall be no less than the following:

Front to Front:	60 feet
Front to Rear:	50 feet
Side to Side:	30 feet
Rear to Rear:	50 feet
7. Maximum number of units in one Townhouse building: six (6).
8. Maximum linear dimension of any Structure: 150 feet.
9. Building Setbacks: Each Townhouse Dwelling Unit shall be set back at least twenty five (25) feet from all internal Streets, roadways, sidewalks, driveways or common parking areas. **[Amended by Ord. No. 2015-04]**
10. Common Open Space: A minimum of 30% Common Open Space shall be provided. Common Open Space shall comply with the Standards for Location and Management of Open Space as contained in Section 1504(D).

D. Mobile Home Parks

1. Minimum Tract Size.

Every tract to be subdivided or developed as a Mobile Home park shall have an Adjusted Lot Area of not less than four (4) acres. **[Amended by Ord. No. 2015-04]**

2. Density of Development.

A Mobile Home park shall have a maximum density of five (5) Dwelling Units per Adjusted Acre.

3. Tract width.

Every tract to be developed as a Mobile Home park shall have a minimum width of two-hundred and fifty (250) feet.

4. Front Yard.

No Mobile Home unit shall be located within sixty (60) feet of a perimeter Street nor within twenty (20) feet of an internal roadway, driveway, or parking Lot.

5. Side and Rear Yards.

No Mobile Home unit shall be located within sixty (6) feet of a side or rear boundary of the tract to be subdivided or developed, and no parking Lot shall be located within thirty (30) feet thereof.

6. Spacing requirements.

a. Each Mobile Home unit shall be situated on a lot: containing not less than six thousand (6,000) square feet in area with a minimum lot width of fifty-five (55) feet.

b. Mobile Home units shall be sited on individual Lots so as to provide a useable Yard space in either the rear or one side of the Lot.

c. No unit shall be sited closer than twenty-five (25) feet to another unit nor five (5) feet from a side or rear Lot boundary of an individual Mobile Home Lot.

d. Not less than twenty (20) percent of the tract, exclusive of required Yard setbacks, shall be Common Open Space useable for active or passive recreation by the residents of the Mobile Home park.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard nor within five (5) feet of a side or rear Lot boundary of an individual Mobile Home Lot. Tool or storage sheds may be placed at a Lot boundary if placed contiguous to another such building on the adjacent Lot.

8. Lot Coverage.

Not more than forty (40) percent of a tract or individual Mobile Home Lot may be occupied by Mobile Home units, common driveways and parking areas, internal roads, Accessory Building, or other Impervious Cover. The remaining area shall be Green Area.

E. The following area and bulk regulations shall apply to all other uses in this district:

1. Lot Area.

Every Lot shall have an Adjusted Acreage of not less than 30,000 square feet.

2. Lot Width.

Every Lot shall have a width at the Building Line and at the Street Line of not less than one hundred (100) feet.

3. Floor-area Ratio.

The total floor area shall not exceed .20 of the Adjusted Acreage of the Lot for a one-Story Building, and .30 of the Adjusted Acreage of the Lot for a Building of more than one Story. In no event shall a one-Story Building exceed 50,000 square feet in gross floor area, and 100,000 square feet for a building of more than one Story. However, the Board of Supervisors may authorize an increase in the maximum size of the Building, if the proposed development meets the following additional standards:

- a. The Board of Supervisors have determined that the proposed building is consistent with the architectural nature of the Township; that the exterior architectural features of the Building that are seen from a public Street or way are shielded from surrounding residential uses; and that the general design, arrangement, height, texture, material, and color of the Building and the relation of such factors to similar features of Buildings in the area is consistent.
- b. At least 40% of the required and provided parking is placed to the rear of the Building, so that the view from the Street frontage, or in the case of multiple Street frontages, the principal frontage, is shielded by the Building and landscaped areas.
- c. A fire lane at least twenty (20) feet in width shall be provided around the entire building to be constructed, of either an approved all-weather surface or grass pavers, or a combination thereof.

4. Front Yard.

There shall be a Front Yard of not less than fifty (50) feet from the front Building Line to the Street Line, within which no building, gasoline pumps, or outdoor display shall be situated. In the case of Lots fronting on Route 1, a Front Yard of not less than sixty (60) feet from the front Building Line to the Street shall be provided.

5. Side Yards.

There shall be Side Yards of not less than twenty (20) feet each within which no buildings, gasoline pumps or outdoor displays shall be situated. For buildings in excess of one Story, each Side Yard setback shall increase by five (5) feet per Story. Where a C-2 use abuts an RB Residential District, each Side Yard setback shall comply with the increased Buffer requirements of Section 1812(D)2.

6. Rear Yard.

There shall be a Rear Yard of not less than twenty (20) feet within which no buildings, gasoline pumps or outdoor displays shall be situated. For buildings in excess of one Story, the Rear Yard setback shall increase by five (5) feet per Story. Where a C-2 use abuts an RB Residential District, the Rear Yard setback shall comply with the increased Buffer requirements of Section 1812(D)2.

7. Accessory Structures.

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

8. Height Restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height, except that no Accessory Building shall exceed twenty (20) feet in height.

9. Lot Coverage.

Not more than fifty-five percent (55%) of the Adjusted Acreage of any Lot, may be occupied by buildings, the paved portion of parking areas, driveways, and other Impervious Cover. The remainder of any shall be Green Area.

**SECTION 904. DESIGN STANDARDS**

- A. Single Family and Two-Family Dwellings
  - 1. Parking.  
As required by §1812(A)2 of this Ordinance.
  - 2. Access and highway frontage.  
As required by §1812(B)1 of this Ordinance.
  
- B. Multi-Family Dwellings and Mobile Home Parks
  - 1. Parking.  
As required by §1812(A)2 of this Ordinance.
  - 2. Access and highway frontage.  
As required by §1812(B)1 of this Ordinance.
  - 3. Landscaping.  
As required by §1812(C) of this Ordinance.
  - 4. Screening.  
As required by §1812(D) of this Ordinance.
  - 5. Storage.  
As required by §1812(E) of this Ordinance.
  - 6. Interior circulation.  
As required by §1812(F) of this Ordinance.
  - 7. Lighting.  
As required by §1812(G) of this Ordinance.

- C. Uses by Special Exception.
1. Parking.  
As required by §1812(A)1 of this Ordinance.
  2. Access and highway frontage.  
As required by §1812(B) of this Ordinance.
  3. Landscaping.  
As required by §1812(C) of this Ordinance.
- D. Conditional Uses, Except Mobile Home Parks
1. Parking.  
As required by §1812(A)2 of this Ordinance.
  2. Access and Highway frontage.  
As required by §1812(B)1 of this Ordinance.
  3. Landscaping.  
As required by §1812(C) of this Ordinance.
  4. Screening.  
As required by §1812(D) of this Ordinance.
  5. Storage.  
As required by §1812(E) of this Ordinance.
  6. Interior circulation.  
As required by §1812(F) of this Ordinance.
  7. Lighting.  
As required by §1812(G) of this Ordinance.

8. Loading.

As required by §1812(H) of this Ordinance.

9. Additional requirements for a Restaurant, Drive-In:

- a. The use must have direct access to a principal arterial (Route 1). Common driveway entry points with surrounding land uses are to be utilized whenever possible.
- b. There shall be only one point of ingress and one point of egress to the principal arterial.
- c. When a drive-in window is proposed, a stacking lane shall be provided to serve a minimum of ten cars. The stacking lane shall not be used for parking Lot circulation aisles, nor shall it in any way conflict with through circulation or parking.
- d. All such Restaurants shall provide a trash storage area which is designed and constructed to be screened from the Street and adjacent properties, to prevent trash from blowing from the area, and to permit safe and easy removal.
- e. In no event shall a proposed Restaurant, Drive-In be located with one-thousand five hundred (1,500) feet of another Restaurant, Drive-In.

## **ARTICLE IX-A LIMITED MULTIPLE USE DISTRICT (LMU)**

### **SECTION 951. LIMITED MULTIPLE USE DISTRICT (LMU)**

In addition to the general goals listed in the Purposes §102 and Community Development Objectives §103 of this Ordinance, the purposes of this Section are:

- A. To provide spaces in appropriate locations for certain uses permitted in both the R-M and C-2 Districts.
- B. To encourage medium to high density residential development in areas which are easily accessible to major highways, commercial areas and utilities.
- C. To fulfill the purposes of this district, density standards have been incorporated which, among other things, provide for medium to high density Dwelling uses and permit well designed Multi-Family Developments which contain a variety of housing types.
- D. To provide sufficient space in appropriate locations for various types of commercial, office and service establishments.
- E. To provide appropriate space for the requirements of such uses, including the provision of off-Street parking spaces and safe circulation of pedestrian and motor traffic.
- F. To promote the most desirable use of, and pattern of, building development in accordance with a well-considered plan.
- G. To conserve the value of land and buildings.

### **SECTION 952. USE REGULATIONS**

- A. Uses by Right

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used by right for any of the following purposes and for no other.

1. Single Family Detached Dwelling.
  2. Two-Family Dwelling.
  3. Multi-Family Dwelling, when served by central water and sewer systems.
  4. Group Care Homes in accordance with provisions of Section 1814.
  5. Forestry, subject to the requirements of Section 1821.
- B. Uses by Special Exception
1. Reserved
- C. Conditional Uses.

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Bed and Breakfast operations in accordance with §1813 of this Ordinance.
2. Educational or religious, except for Hospital, Assisted Living Facilities, Rehabilitation Facilities, correctional or penal institution, and half-way house.
3. Child Day Care Center with a maximum of seventy-five (75) children, or as prescribed by state regulations, whichever is less, upon an Adjusted Lot Area of not less than two acres.
4. Hotels, Motels or Event Space, except that the minimum Lot Area is 3 acres, and the minimum Lot Width is 200 feet.
5. Boarding, Lodging or Rooming House.
6. Business, professional, governmental, financial and/or institutional offices.
7. Funeral home.
8. Museum, library, park, Church, community center or other educational or cultural use of a similar nature.

D. Accessory Uses.

The following Accessory Uses shall be incidental to any of the foregoing permitted uses.

1. Customary residential Accessory Uses, including a private garage or private greenhouse.
2. Accessory Uses customarily associated with, and incidental to, uses designated in §952(A), §952(B), or §952(C).
3. Accessory Dwelling Units in accordance with the provisions in §502(B)1, except that the total minimum Adjusted Lot Area required for a principal and Accessory Dwelling Unit shall be two (2) times the applicable Single Family Lot Area regulations in the LMU District. In no case shall more than one (1) Accessory Dwelling Unit be permitted on a Lot in the LMU District. **[Amended by Ord. No. 2015-04]**

## **SECTION 953. AREA AND BULK REGULATIONS**

A. Single Family Residences

1. Lot Area and bulk regulations.

Every Lot containing a Single Family residence shall have an Adjusted Lot Area of not less than 40,000 square feet if not served by both central water and sewer systems or not less than 10,000 square feet if served by both central water and sewer systems; provided that, if the Lot does not abut a Street or road, the Lot must be connected to a road or Street by a right-of-way or roadway at least 25' wide, which right-of-way or roadway shall be in addition to the minimum Adjust Lot Area requirement.

For every Lot served by both central water and sewer, the following regulations shall apply.

Minimum Adjusted Lot Area:	10,000 square feet
Minimum Lot Width:	60 feet
Maximum Lot Coverage:	40%
Minimum Front Yard:	30 feet
Minimum Side Yard (aggregate):	10 feet each
Minimum Rear Yard:	40 feet
Height:	In accordance with Section 503(H)

Accessory Structures shall be located not less than 10' from side or rear Lot lines, and shall not be located within a Front Yard.

2. For every Lot not served by both central water and sewer systems.

A Lot not served by central water and sewer systems shall comply with the following area and bulk regulations.

Minimum Adjusted Lot Area:	40,000 square feet
Minimum Lot Width:	125 feet
Maximum Lot Coverage:	20%
Minimum Front Yard:	40 feet
Minimum Side Yard (aggregate):	50 feet, 20 feet minimum
Minimum Rear Yard:	50 feet

Accessory Structures shall be located not less than ten (10) from rear or side property lines.

B. Two-Family Dwellings (Duplex or Twin Dwellings)

1. Adjusted Lot Area: Not less than 8,000 square feet per Family.
2. Lot Width at Building Line: 60 feet minimum per Family.
3. Side Yards: 15 feet minimum on each side of the Structure.
4. Front Yard: 35 feet.
5. Rear Yard: 30 feet.
6. Lot Coverage: Not more than forty (40) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.

7. Accessory Structures shall be located not less than 10' from the side or rear Lot line.

C. Multi-Family Dwellings

1. Minimum Tract Size: Every tract to be subdivided or developed for Multi-Family Dwellings shall have an Adjusted Lot Area of not less than four (4) acres. **[Amended by Ord. No. 2015-04]**
2. Density: The maximum density for Townhouse development shall be five (5) Dwelling Units per Adjusted Acre, and the maximum density for Apartment Buildings shall be seven (7) Dwelling Units per Adjusted Acre. **[Amended by Ord. No. 2015-04]**
3. Tract Setback: There shall be a minimum tract setback for buildings of 50 feet around the entire property. There shall be a minimum tract setback for driveways, roads, and parking areas of 25 feet around the entire property. This 25 foot setback is within the 50 foot tract setback.
4. Tract Width: The minimum tract width for Multi-Family Dwelling development shall be 300 feet at the Building Line.
5. Unit Width and Setbacks. Each Townhouse Dwelling Unit shall have a minimum width of twenty six (26) feet and shall be set back at least twenty five (25) feet from all internal Streets, roadways, sidewalks, driveways or common parking areas. **[Amended by Ord. No. 2015-04]**
6. Building to Building Setbacks shall be no less than the following
 

Front to Front:	60 feet
Front to Rear:	60 feet
Side to Side:	30 Feet
Rear to Rear:	50 feet
7. Maximum number of units in one Townhouse building: six (6).
8. Maximum linear dimension of any Structure: 150 feet.
9. Building Setbacks from all Street and parking Lots: 25 feet.
10. Common Open Space: A minimum of 30% Common Open Space shall be provided. Common Open Space shall comply with the Standards for Location and Management of Open Space as contained in Section 1504(D).

**SECTION 954. DESIGN STANDARDS****A. Single Family and Two-Family Dwellings**

Regulations regarding parking are per Section 1812(A)2 of this Ordinance; and regulations regarding Access and Highway frontage are per Section 1812(B.)1 of this Ordinance.

**B. Multi-Family Dwellings**

Regulations regarding Streets and Walkways, parking, lighting, runoff and erosion control, landscaping and Buffers, Signs, supplemental non-residential facilities, and utilities shall comply with §1504(C.)5 through 12, respectively, of this Ordinance.

**C. Non-Residential Uses**

Regulations regarding parking, access and highway frontage, landscaping, screening, storage, interior circulation, lighting, and loading shall comply with Sections 1812(A)1 and 1812(B) through (H), respectively.

## **ARTICLE X LIMITED INDUSTRIAL DISTRICT (LI)**

### **SECTION 1001. LIMITED INDUSTRIAL DISTRICT (LI)**

- A. The LI limited Industrial District is designed primarily to provide for selected modern, non-nuisance research and industrial establishments with a view to encouraging attractive, large-site, low Lot Coverage development in areas which are particularly well suited for such uses.
- B. In promoting the general purposes of this Ordinance, the intent of the LI District is to (1) encourage only those types of industrial uses which would not constitute a hazard or nuisance to the population of the adjacent areas and which would contribute to the continuation of appropriate development within and adjacent to the District, and (2) discourage the use of land for residences in order to preserve the area for its appropriate use and also to prevent the location of residences in an area inappropriate for residential use.
- C. In the LI Limited Industrial District, all provisions of this Article shall apply.

### **SECTION 1002. USE REGULATIONS**

A Building or group of Buildings may be erected, altered, or used, and a Lot or premises may be used for any of the following purposes and for no other:

- A. Uses by Right.
  - 1. Office building, provided that the total floor area of the building does not exceed 8,000 square feet.
  - 2. Forestry, subject to the requirements of Section 1821.
- B. Conditional Uses.

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008.

1. Single Family detached Dwelling, provided that each Lot complies with all requirements for such use set forth in Article V, R-B Residential – B.
2. Two-Family Dwellings, when served by central water and sewer systems.
3. Multi-Family Dwellings, when served by central water and sewer systems.
4. Mobile Home Parks, when served by central water and sewer systems.
5. Scientific research laboratory, or other testing or research establishment.
6. Office building having in excess of 8,000 square feet of floor area, or a group of two or more office buildings on the same Lot.
7. Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, confections, candy, toiletries, perfumes, cosmetics, and dairy products.
8. Manufacture of novelties from previously prepared materials, jewelry, watches, clocks, optical goods, professional and scientific instruments.
9. Manufacture, assembly and repair of small electrical appliances and parts, such as lighting fixtures and fans and electronic measuring and controlling devices; assembly and repair of electrical equipment such as radio and television receivers and home movie equipment, not including electrical machinery; and gunsmithing or manufacture, assembly and repair of fire arms, knives or other hand-held weapons.
10. Printing, publishing, lithographing, binding, and similar processes.
11. Manufacture of boxes, containers, bags, novelties, and other packaging products from previously prepared materials. The manufacture of paper from pulp is specifically excluded.
12. Warehouse, Mini-Warehouse, or distribution center, express or trucking establishment; provided that satisfactory provisions are made to prevent traffic congestion and hazard, and that, in the case of a warehouse or distribution center, all loading and unloading operations be carried out within the walls of any building utilized for such purposes.
13. Mushroom plants and Composting Facilities, in accordance with the following specific provisions:

- a. Lot Area. Every Lot containing a mushroom plant or a Composting Facility shall have an area of not less than seven (7) acres.
- b. Front Yard. There shall be a Front Yard on each Street on which a Lot abuts, the depth of which shall be at least two hundred fifty (250) feet measured from the center line of the right-of-way to the nearest point of any part of the mushroom plant, including the wharf.
- c. Side and back Yards. Any mushroom plant or Composting Facility shall be located at least one hundred (100) feet from all property lines.
- d. Accessory Building. No Accessory Building shall be closer to the Street on which the Front Yard of any mushroom plant abuts than the front Building Line of the principal plant.
- e. Compost Yard. Except in connection with an approved Composting Facility, a mushroom compost yard for the preparation of compost to be used off the premises is prohibited. This shall not be construed to prohibit the isolated sale of unused compost on any other premises on which the compost is processed.
- f. Spent compost. No spent mushroom soil shall be stored within one hundred (100) feet of a road, building or property line in such quantities or in such manner so as to create a nuisance.
- g. Setback area. The setback area surrounding mushroom plants or a Composting Facility may be used for any other purpose permitted in the R-B District, provided that all regulations applicable to such other use are met. Any Dwelling constructed under this paragraph shall be considered a co-principal building for purposes of interpreting and administering this Ordinance. Lot Area and Yard dimensions shall be shown on a plot plan which must accompany the application for building permit. **[Amended by Ord. No. 2015-04]**
- h. Lot Coverage. Not more than twenty-five (25) percent of the area of any Lot may be occupied by buildings, parking areas, and other Impervious Cover. The remaining area shall be Green Area.

14. Mineral extraction, in compliance with the requirements of Section 1811, and other applicable sections of this Ordinance.
  15. Any other use, whether industrial or other, not specifically provided for in this Ordinance or elsewhere in the Region in the Zoning Ordinances of West Marlborough Township and/or Newlin Township, in compliance with the requirements of Section 1811 and other applicable sections of this Ordinance.
- D. Accessory Uses.
- Only Accessory Uses customarily associated with and incidental to permitted light industrial uses shall be permitted, which uses may include:
1. Storage within a completely enclosed building in conjunction with a permitted use, and
  2. Living accommodations for a watchman or similar employee.

### **SECTION 1003. SPECIAL DEVELOPMENT REGULATIONS**

All applications for Zoning Permits for limited industrial uses shall also demonstrate compliance with the following special development regulations.

- A. An Accessory Building may be separate from a principal building but is shall not encroach upon or extend into any of the require Yard areas.
- B. All Structures erected within said district shall comply with the requirements and specifications set forth in the Pennsylvania Uniform Construction Code, 35 P.S. 7210.101 et seq., and Regulations pursuant thereto, 34 Pa Code 403.121 et seq., as most recently amended, and as recommended by the National Board of Fire Underwriters. Compliance therewith shall be determined by the Township Engineer.
- C. All utilities are to be underground.
- D. Subdivision and land development approvals, and building permits shall be granted after following all procedures established in the East Marlborough Township Subdivision and Land Development Ordinance as amended.

- E. All recipients of building permits must certify that they fully understand the performance standards and that the intended uses will not violate them.
- F. All new Structures requiring sewage disposal must provide capped sewer lines, to the appropriate place on the Lot as specified by the Township Engineer.
- G. Existing and proposed perimeter and internal roads must meet specifications determined by the Township Engineer as adequate for the LI District in general and the proposed use in particular, and such road specifications may exceed those set forth in the East Marlborough Township Subdivision and Land Development Ordinance.
- H. A certification from the Township Fire Marshal as to the adequacy of emergency vehicles shall be required.
- I. All physical performance standards required by §1809 shall be specifically addressed and compliance therewith demonstrated.

#### **SECTION 1004. AREA AND BULK REGULATIONS**

Uses authorized in §1002 shall comply with the following area and bulk regulations.

- A. Two-Family Dwellings (Duplex or Twin Dwellings)
  - 1. Adjusted Lot Area: Not less than 8,000 square feet per Family.
  - 2. Lot Width at Building Line: 60 feet minimum per Family.
  - 3. Side Yards: 15 feet minimum on each side of the Structure.
  - 4. Front Yard: 35 feet.
  - 5. Rear Yard: 30 feet.
  - 6. Lot Coverage: Not more than forty (40) percent of the area of each Lot may be occupied by buildings or other Impervious Cover. The remaining area shall be Green Area.
  - 7. Accessory Structures shall be located not less than 10' from the side or rear Lot line.

B. Multi-Family Dwellings

1. Minimum Tract Size: Every tract to be subdivided or developed for Multi-Family Dwellings shall have an Adjusted Lot Area of not less than four (4) acres. **[Amended by Ord. No. 2015-04]**
2. Density: The maximum density for Townhouse development shall be four (4) Dwelling Units per Adjusted Acre, and the maximum density for Apartment Buildings shall be six (6) Dwelling Units per Adjusted Acre. **[Amended by Ord. No. 2015-04]**
3. Tract Setback: There shall be a minimum tract setback for buildings of 50 feet around the entire property. There shall be a minimum tract setback for driveways, roads, and parking areas of 25 feet around the entire property. This 25 foot setback is within the 50 foot tract setback.
4. Tract Width: The minimum tract width for Multi-Family Dwelling development shall be 300 feet at the Building Line.
5. Unit Width. Each Townhouse Dwelling Unit shall have a minimum width of thirty (30) feet. **[Amended by Ord. No. 2015-04]**
6. Building to Building Setbacks shall be no less than the following
  - Front to Front: 60 feet
  - Front to Rear: 60 feet
  - Side to Side: 30 Feet
  - Rear to Rear: 50 feet
7. The maximum number of Dwelling Units in a Townhouse building shall be four (4). **[Amended by Ord. No. 2015-04]**
8. Maximum linear dimension of any Structure: 150 feet.
9. Building Setbacks: Each Townhouse Dwelling Unit shall be set back at least twenty five (25) feet from all internal Streets, roadways, sidewalks, driveways or common parking areas. **[Amended by Ord. No. 2015-04]**
10. Common Open Space: A minimum of 40% Common Open Space shall be provided. Common Open Space shall comply with the Standards for Location and Management of Open Space as contained in Section 1504(D). **[Amended by Ord. No. 2015-04]**

## C. Mobile Home Parks

## 1. Minimum Tract Size.

Every tract to be subdivided or developed as a Mobile Home park shall have an Adjusted Lot Area of not less than four (4) acres. **[Amended by Ord. No. 2015-04]**

## 2. Density of development.

A Mobile Home park shall have a maximum density of five (5) Dwelling Units per Adjusted Acre.

## 3. Tract width.

Every tract to be developed as a Mobile Home park shall have a minimum width of two-hundred fifty (250) feet.

## 4. Front Yard.

No Mobile Home unit shall be located within sixty (60) feet of a perimeter Street nor within twenty (20) feet of an internal Street, common driveway, or common parking area.

## 5. Side and Rear Yards.

No Mobile Home unit shall be located within sixty (60) feet of a side or rear boundary of the tract to be subdivided or developed, and no common parking area shall be located within thirty (30) feet thereof.

## 6. Spacing requirements.

a. Each Mobile Home unit shall be situated on a Lot containing not less than six thousand (6,000) square feet in area nor fifty-five (55) feet in width.

b. Mobile Home units shall be sited on individual Lots so as to provide a large useable Yard space in either the rear or one side of the Lot.

c. No unit shall be sited closer than twenty-five (25) feet to another unit nor five (5) feet from a side or rear Lot boundary of an individual Mobile Home Lot.

- d. Not less than twenty (20) percent of the tract, exclusive of required Yard setbacks, shall be Common Open Space useable for active or passive recreation by the residents of the Mobile Home park.

7. Accessory Structures.

No Accessory Structures shall be situated within the Front Yard nor within five (5) feet of a side or rear Lot boundary of an individual Mobile Home Lot. Tool or storage sheds may be placed at a Lot boundary if placed contiguous to another such building on the adjacent Lot.

8. Lot Coverage.

Not more than forty (40) percent of a tract or individual Mobile Home Lot may be occupied by Mobile Home units, common driveways and parking areas, internal roads, Accessory Buildings, or other Impervious Cover. The remaining area shall be Green Area.

D. All other uses authorized in Section 1002 shall comply with the following area and bulk regulations:

1. Lot Area.

Every Lot shall have an Adjusted Acreage of not less than 3 acres.

2. Lot Width.

Every Lot shall have a width at the Building Line of not less than two hundred fifty (250) feet.

3. Floor-Area Ratio.

The total floor area shall not exceed .30 of the Adjusted Acreage of the Lot for a one-Story Building, and .40 of the Adjusted Acreage of the Lot for a Building of more than one Story. In no event shall a one-Story Building exceed 50,000 square feet in gross floor area, and 100,000 square feet for a building of more than one Story. However, the Board of Supervisors may authorize an increase in the maximum size of the Building, if the proposed development meets the following additional standards:

- a. The Board of Supervisors have determined that the proposed building is consistent with the architectural nature of the

Township; that the exterior architectural features of the Building that are seen from a public Street or way are shielded from surrounding residential uses; and that the general design, arrangement, height, texture, material, and color of the Building and the relation of such factors to similar features of Buildings in the area is consistent.

- b. At least 40% of the required and provided parking is placed to the rear of the Building, so that the view from the Street frontage, or in the case of multiple Street frontages, the principal frontage, is shielded by the Building and landscaped areas.
- c. A fire lane at least twenty (20) feet in width shall be provided around the entire building to be constructed, of either an approved all-weather surface or grass pavers, or a combination thereof.

4. Front Yard.

There shall be a Front Yard of not less than one hundred fifty (150) feet.

5. Side Yards.

There shall be Side Yards of not less than fifty (50) feet.

6. Rear Yard.

There shall be a Rear Yard of not less than fifty (50) feet.

7. Accessory Structures.

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

8. Height Restrictions.

No Structure shall exceed three (3) stories or thirty-five (35) feet in height.

9. Lot Coverage.

No more than thirty percent (30%) of the Adjusted Acreage of any Lot, may be occupied by buildings, and not more than fifty-five percent (55%) of the Adjusted Acreage of any Lot, may be occupied by the paved

portion of parking areas, driveways, and other Impervious Cover. The remainder of any Lot shall be Green Area.

## **SECTION 1005. DESIGN STANDARDS**

- A. Parking.  
As required by §1812(A)2 of this Ordinance.
- B. Access and Highway frontage.  
As required by §1812(B)1 of this Ordinance.
- C. Landscaping.  
As required by §1812(C) of this Ordinance.
- D. Screening.  
As required by §1812(D) of this Ordinance.
- E. Storage.  
As required by §1812(E) of this Ordinance.
- F. Interior circulation.  
As required by §1812(F) of this Ordinance.
- G. Lighting.  
As required by §1812(G) of this Ordinance.
- H. Loading.  
As required by §1812(H) of this Ordinance.

## **ARTICLE XI**

### **EDUCATIONAL, SCIENTIFIC, AND INSTITUTIONAL DISTRICT (ESI)**

#### **SECTION 1101. EDUCATIONAL, SCIENTIFIC, AND INSTITUTIONAL DISTRICT (ESI)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
1. To provide for the special needs of large uses devoted to educational, scientific, research, and institutional purposes;
  2. To preserve the open character of substantial areas of the Township which are not utilized for or are particularly suited to such uses; and
  3. To encourage a harmonious pattern of such uses which will benefit the Township as well as the public, quasi-public, and eleemosynary organizations which carry on educational, scientific, and institutional uses.
- B. In the ESI Educational, Scientific, and Institutional District, all provisions of this Article shall apply.

#### **SECTION 1102. USE REGULATIONS**

A Building or group of Buildings may be erected, altered or used, and a Lot or premises may be used, by right, for any of the following purposes and for no other:

- A. Uses by Right
1. Public, parochial or private elementary School, secondary School or college, or other educational institution for academic instruction, not to include as a principal use, athletic training, dance studio or like use.
  2. Scientific or research facility under the auspices or a public agency, academic institution, non-profit organization or a business organization, provide that no sales or manufacturing activities occur on the premises.

3. Botanical Garden under the auspices of a public agency, academic institution, or non-profit organization.
  4. Woodland, game preserve, or other conservation purpose.
  5. Agriculture, Agricultural Operations, Equestrian Uses, and Farm, each in accordance with the provisions of §1804 of this Ordinance, "Farm Regulations." Notwithstanding the foregoing, mushroom culture is not permitted.
  6. Forestry, subject to the requirements of §1821 of this Ordinance.
  7. Animal Hospital For Large Animals.
- B. Uses by Special Exception

Any of the following uses shall be permitted as a Special Exception when authorized by the Zoning Hearing Board, subject to the standards of §2109 of this Ordinance:

1. Single Family Dwelling Unit.
2. Accessory Dwelling Units accessory to a School, a Botanical Garden, Agricultural Operations, Equestrian Uses, a Farm or an Animal Hospital for Large Animals, subject to the following conditions: **[Added by Ord. No. 2015-04]**
  - a. An Applicant for a building permit for an Accessory Dwelling Unit (including a permit to convert an existing Dwelling by adding an Accessory Dwelling within the existing Dwelling Unit) shall present with the building permit application:
    - i. a permit from the Chester County Health Department for either (A) tie-in to an existing on-site sanitary sewage treatment system having sufficient capacity to treat the additional sewage flows from the Accessory Dwelling Unit, or for an expansion of such system, or (B) a new on-site sewage disposal system, unless the property is served by a Public Sewer System with available capacity, in which case, the Applicant shall pay the prescribed tap-in fee for the Accessory Dwelling Unit and provide plans for tie-in to the public system.

- ii. a report from a qualified professional that the existing domestic water supply facilities are adequate to serve both the principal and Accessory Uses, or, in the alternative, the permit for the drilling of a new well, unless the property is served by public water supply.
- b. In the event the Lot on which an Accessory Dwelling Unit is constructed (the "Parent Lot") contains any other Structure, the curtilage of each Accessory Dwelling Unit on the Parent Lot shall not be less than 80,000 square feet or such lesser area as would be permitted for Lots created in accordance with the Lot Averaging or Cluster Development provisions of Article XVI of this Ordinance as applied to the Parent Lot. In addition, the Accessory Dwelling Unit must comply with the applicable Spacing Requirements, Accessory Structures, Height Restrictions, and Lot Coverage regulations of the ESI District, and comply with the parking requirements of Section 1812(A)2 of this Ordinance.
- c. No Accessory Dwelling Unit shall be located above the second floor of a Building.
- d. All individuals living in an Accessory Dwelling Unit must be Family members of the Landowner or persons employed in the principal use of the Landowner of the Parent Lot permitted in the ESI District or be related by blood, marriage or legal adoption to the employed person.
- e. The Landowner must obtain a Zoning Permit in accordance with §2004 for the use and the owner must execute a Memorandum of Agreement in a form and substance satisfactory to the Township Solicitor, and which shall be recorded with the Recorder of Deeds of Chester County setting forth the conditions of the use. If a new structure is proposed as the Accessory Dwelling use, then the property owner must obtain land development approval from the Township in accordance with the Subdivision and Land Development Ordinance. Architectural elevations of any proposed exterior changes shall be submitted as part of the Zoning Permit or land development application, for review by the Township.
- f. In no case shall more than four (4) Accessory Dwelling Units be permitted on a Lot in the ESI District.

3. Group Care Homes in accordance with provisions of Section 1814. **[Amended by Ord. No. 2015-04]**

C. Conditional Uses

Any of the following uses shall be permitted as a Conditional Use when authorized by the Board of Supervisors, subject to the standards and procedures set forth herein and in §2008:

1. Hospital, Assisted Living Facility, Rehabilitation Facility, correctional or penal institution or half-way house.
2. Any similar use not provided for in Residential Districts, such as health clinics, or institution or home for children, senior citizens, or the indigent.
3. Museum under the auspices of a public agency, academic institution, or non-profit organization.
4. Radio or television transmission tower or facility, which does not include a Wireless Communication Facility.
5. Cemetery or memorial park.
6. Church
7. Dormitories located on a School property to house students currently enrolled at such School.

D. Accessory Uses

Only Accessory Uses customarily associated with and incidental to any of the foregoing permitted uses shall be permitted. Such Accessory Uses shall meet the minimum applicable area and bulk regulations applicable in the ESI District. Permitted Accessory Uses shall include:

1. Restaurants and cafeterias may be established as Accessory Uses to educational, cultural, or eleemosynary uses, provided that such facilities shall not serve or advertise to the general public, but shall serve only bona fide employees, students, clients and visitors to the primary use.
2. A Gift Shop may be established as an Accessory Use to a School, Botanical Garden or a Museum, provided that such Gift Shop primarily shall sell articles produced in connection with or otherwise related to the core mission of the institution. **[Amended by Ord. No. 2015-04]**

3. Event Space may be established as an Accessory Use to a Botanical Garden or a Museum, provided that such Event Space may be used solely for functions related to the core mission of the institution or held for the benefit of the institution itself or another public agency, academic institution, or non-profit organization. The use of active recreation apparatus and similar activities as part of this use shall be prohibited.
4. A Performing Arts Facility may be established as an Accessory Use to a Botanical Garden or a School, provided that such facility may be used solely for functions held for the benefit of the institution itself or as part of its core mission. An outdoor Performing Arts Facility may have seating capacity for no more than 8,000 people, shall be in close proximity to the principle public Buildings of the institution, and shall be incorporated architecturally into the central facilities of the institution.
5. A Museum may be established as an Accessory Use to a Botanical Garden, provided the displays and exhibitions presented at such Museum shall focus primarily on the core mission or heritage of the institution itself.
6. Except for a Single Family Dwelling Unit permitted by Special Exception, any residential use within the ESI District, including a dormitory to house students permitted by Conditional Use, must be accessory to a permitted use; provided that facilities for the lodging of overnight visitors or guests, such as a Hotel or Motel, shall not be a permitted Accessory Use in the ESI District.
7. A Single Family Dwelling Unit permitted by Special Exception may include customary residential Accessory Uses, including private garage and greenhouse, Swimming Pool, tennis court, or paddle tennis court, provided that such Accessory Use is located behind the front façade of the house and Building Line and is set back at least one (100) feet from any side or rear property line, and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.

### **SECTION 1103. AREA AND BULK REGULATIONS**

#### **A. Lot Area**

Every Lot shall have an Adjusted Acreage of not less than ten (10) acres.

B. Lot Width

Every Lot shall have a width at the Building Line of not less than four hundred (400) feet.

C. Front Yard

There shall be a Front Yard of not less than one hundred fifty (150) feet.

D. Side Yards

There shall be Side Yards of not less than one hundred (100) feet each.

E. Rear Yard

There shall be a Rear Yard of not less than one hundred (100) feet.

F. Spacing Requirements

The minimum distance between buildings shall be:

1. For a front to front, front to rear or rear to rear orientation, three (3) times the height of the taller building, but not less than sixty (60) feet, exclusive of parking areas, common driveways, and internal Streets.
2. For a front to side or rear to side orientation, two (2) times the height of the taller buildings, but not less than forty (40) feet, exclusive of parking areas, common driveways, and internal Streets.
3. For a side to side orientation, the height of the taller building, but not less than twenty (20) feet, exclusive of parking areas, common driveways, and internal Streets.

G. Accessory Structures

All Accessory Structures shall be located in conformance with the Yard requirements herein specified.

H. Height Restrictions

No Structure, except a radio or television transmission tower or facility authorized by the Board of Supervisors as a Conditional Use, shall exceed three (3) stories or thirty-five (35) feet in height.

I. Lot Coverage

Not more than fifteen percent (15%) of the Adjusted Acreage of any Lot may be occupied by buildings and not more than thirty percent (30%) of the Adjusted Acreage of any Lot may be occupied by buildings, the paved portion of parking areas, driveways and other Impervious Cover. The remainder of any Lot shall be Green Area.

J. Intensity of Use

Any use involving the provision of beds, including but not limited to Hospital; Assisted Living Facility; Rehabilitation Facility; correction or penal institution; half-way house; home for children, senior citizens, or the indigent; and dormitories associated with educational uses, shall provide a maximum of seventy (70) beds on a Lot of ten acres, plus eight additional beds for each additional full acre of Lot Area.

## **SECTION 1104. DESIGN STANDARDS**

A. Uses by Right, except those provided for in §1102(A)1, §1102(A)2 and §1102(A)3, and Single Family Dwelling Units.

1. Parking. As required by §1812(A)2 of this Ordinance.
2. Access and Highway Frontage. As required by §1812(B) of this Ordinance.

B. Uses by Right, provided for in §1102(A)1, §1102(A)2 and §1102(A)3; Uses by Special Exception provided for in §1102(B)2; Conditional Uses authorized in §1102(C); and Accessory Used authorized in §1102(D).

1. Parking. As required by §1812(A) of this Ordinance.
2. Access and highway frontage. As required by §1812(B)1 of this Ordinance.
3. Landscaping. As required by §1812(C) of this Ordinance.
4. Screening. As required by §1812(D) of this Ordinance.
5. Storage. As required by §1812(E) of this Ordinance.
6. Interior circulation. As required by §1812(F) of this Ordinance.

7. Lighting. As required by §1812(G) of this Ordinance.
8. Loading. As required by §1812(H) of this Ordinance.

## **ARTICLE XII HISTORIC DISTRICT (H)**

### **SECTION 1201. HISTORIC DISTRICT (H)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purposes of this Section are:
  - 1. To protect historic buildings and areas within East Marlborough Township which reflect the architectural and historic heritage of the Township; and
  - 2. To promote the general welfare, education, and culture of the Township by encouraging an interest in its historical heritage.
  
- B. As authorized by Act 167 of 1961, as amended (53 P.S. §8001, et seq.), and the Pennsylvania Municipalities Planning Code, as amended (53 P.S. §10101, et seq.), this Article requires that certain procedures be followed for determining the appropriateness of the erection, reconstruction, Alteration, restoration, demolition, or razing of any building within the Historic District Overlay before any such action shall be undertaken.

### **SECTION 1202. ZONING MAP OVERLAY**

The H – Historic District, shall be deemed an overlay on the applicable Zoning Districts, and shall be shown on the East Marlborough Township Historic Resource Overlay Map. The Historic District shall be comprised of an area lying in and about the Village of Unionville on the north and south sides of Route 82 (Doe Run Road) and the east and west sides of Route 162 (Embreeville Road) and Wollaston Road, said District containing one hundred twenty (120) acres, more or less.

**SECTION 1203. USE REGULATIONS**

The use regulations of the Base Zoning classification shall apply to all land situated with the Historic District overlay.

**A. Additional Uses**

In addition to the uses permitted in the Base Zoning classification applicable to land situated within the Historic District overlay, the following uses shall be permitted.

1. Boarding, Lodging, or Rooming House; provided that the principal residence of the owner and operator of the operation shall be on the property on which the operation is conducted.
2. On Municipally owned property, uses for use by or the benefit of the public, such as: a park, a library, a community center, a meeting hall, a polling place, or emergency services, together with accessories and amenities typically associated with such uses.

**B. Certificate of Appropriateness**

No person shall commence any work for the erection, reconstruction, Alteration, restoration, demolition, or razing of any Structure located in whole or in part within the Historic District overlay without first obtaining a certificate of appropriateness with respect thereto from the Board of Supervisors in accordance with the requirements and procedures set forth below.

**SECTION 1204. AREA AND BULK REGULATIONS**

The Area and Bulk Regulations of the Base Zoning classification shall apply to all land situated within the Historic Resource overlay.

**SECTION 1205. CREATION AND COMPOSITION OF BOARD OF HISTORICAL ARCHITECTURAL REVIEW**

- A. A Board of Historical Architectural Review is hereby established to be composed of seven (7) members, appointed by the governing body, one (1) of whom shall be a registered architect, one (1) a licensed real estate broker, one (1) the Township Building Inspector, one (1) a member of the Planning Commission, and three (3) additional persons with a knowledge of an interest in the preservation of the historic district. Local historical societies shall be invited to submit nominations.
- B. The initial terms of the members of the Board of Historical Architectural Review shall be as follows: one (1) member shall be appointed for one (1) year, two (2) members for two (2) years, two (2) members for three (3) years, one (1) member for four (4) years, and one member for five (5) years. Annually thereafter, two (2) members of said Board of Historical Architectural Review shall be appointed for a term of five (5) years.
- C. An appointment to fill any vacancy shall be only for the unexpired portion of the term.
- D. The position of any member of the Board of Historical Architectural Review appointed in the capacity of a registered architect, a licensed real estate broker, or as a member of the Planning Commission who ceases to be so engaged shall be automatically considered vacant.

**SECTION 1206. DUTIES AND POWERS OF BOARD OF HISTORICAL ARCHITECTURAL REVIEW**

The Board of Historical Architectural Review shall give counsel to the Board of Supervisors regarding the advisability of issuing any certificates required to be issued pursuant to §1203(B).

- A. The Board of Historical Architectural Review may make and alter rules and regulations for their own organization, according to the laws of the Commonwealth.
- B. A majority of the Board of Historical Architectural Review shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the Board of Historical Architectural Review.

- C. The members of the Board of Historical Architectural Review shall serve without compensation, and shall make an annual report of their transactions to the governing body.
- D. The Board of Historical Architectural Review may, pursuant to appropriations by the Board of Supervisors, employ secretarial assistance, pay their salaries and wages, and incur other necessary expenses.
- E. Board of Historical Architectural Review members are required to exempt themselves from voting on any project in which their own financial interests are directly involved.

## **SECTION 1207. ROLE OF ZONING OFFICER**

No person shall undertake the erection, reconstruction, Alteration, restoration, demolition, or razing of a building in the Historic District until the Board of Supervisors has issued a certificate of appropriateness. Upon receipt of an application for a building permit for work to be done in the Historic District, the Zoning Officer shall act in accordance with the procedures presently being followed in that office except as those procedures are necessarily modified by the following requirements:

- A. The Zoning Officer shall, within seven (7) days of the filing thereof, forward to the office of the Board of Historical Architectural Review a copy of the application for a building permit, and/or Certificate of Appropriateness together with a copy of the plot plan and the building plans and specifications filed by the Applicant.
- B. The Zoning Officer may require the Applicant to submit the following to clearly portray the scope and intent of the project:
  - 1. a plot plan at one (1) inch equals ten (10) feet showing property lines, dimensions and Lot(s) numbers;
  - 2. required setback lines applicable to the property with dimensions from the property lines;
  - 3. sidewalk width and curb lines, including dimensions from the property line(s);
  - 4. Street(s) bordering property with right-of-way widths shown; and

5. all features within the property lines, both existing and proposed (e.g. buildings, driveways, Walkways, walls, fences, hedges, trees, shrubbery, Signs, utilities, etc.)
- C. The Zoning Officer shall maintain in his office a record of all such applications and of his handling and final disposition of the same, which shall be in addition to and appropriately cross-referenced to his other records.
- D. The Zoning Officer shall require Applicants to submit a sufficient number of additional copies of material required to be attached to an application for a building permit to permit compliance with the foregoing.

**SECTION 1208. MEETINGS OF THE BOARD OF HISTORICAL ARCHITECTURAL REVIEW**

- A. Upon receipt by the Board of Historical Architectural Review of a notice that an application for a building permit and/or Certificate of Appropriateness for the erection, reconstruction, Alteration, restoration, demolition, or razing of a building or buildings in the Historic District has been filed, the Board of Historical Architectural Review shall schedule a meeting within thirty (30) days to consider the counsel which the Board of Historical Architectural Review will give to the Board of Supervisors.
- B. The person applying for the permit shall be advised of the time and place of said meeting and shall be invited to appear to explain his reasons therefor.
- C. The Board of Historical Architectural Review may invite such other persons or groups as it desires to attend its meeting.
- D. The Board of Historical Architectural Review may hold any additional meetings it considers necessary to carry out those additional responsibilities indicated in §1206(B).

**SECTION 1209. MATTERS TO BE CONSIDERED IN PASSING UPON CERTIFICATE OF APPROPRIATENESS**

In determining the counsel to be presented to the Board of Supervisors concerning the issuing of a Certificate of Appropriateness of authorizing a permit for the erection, reconstruction, Alteration, restoration, demolition, or razing of all or part of any building within the Historic District, the Board of Historical Architectural Review shall consider the following matters.

- A. The effect of the proposed change upon the general historic and architectural nature of the district.
- B. The appropriateness of exterior architectural features which can be seen from a public Street or way only.
- C. The general design, arrangement, texture, material, and color of the Structure and the relation of such factors to similar features of Structures in the district.
- D. Conformance to the applicable provisions of the Base Zoning classification.
- E. As may be applicable or appropriate in the Board of Historical Architectural Review's opinion, the Design Standards for Historic Resources as set forth in §2412 of this Ordinance.

**SECTION 1210. FINDINGS OF THE BOARD OF HISTORICAL ARCHITECTURAL REVIEW CONCERNING APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS**

- A. If the Board of Historical Architectural Review, on the basis of the information received and from its general background and knowledge, decides to counsel against the granting of a certificate of appropriateness, it shall indicate to the Applicant for a building permit the changes in plans and specifications, if any, which, in the opinion of the Board of Historical Architectural Review, would protect the distinctive historical character of the Historic District.

- B. The Board of Historical Architectural Review shall withhold its report to the Board of Supervisors for a period of five (5) days following its discussion to allow the Applicant to decide whether or not to make the suggested changes in his plans and specifications.
- C. If the Applicant determines that he will make the suggested changes, he shall so advise the Board of Historical Architectural Review, which shall counsel the Board of Supervisors accordingly.
- D. The Board of Historical Architectural Review, after the hearing provided for in §1208 of this Ordinance and after the making of any changes in the plans and specifications as provided in §1210(A) of this Ordinance, shall submit to the Board of Supervisors, in writing within thirty (30) days, its counsel concerning the issuance of a Certificate of Appropriateness, authorizing a permit for the erection, reconstruction, Alteration, restoration, demolition, or razing of all or a part of any building within the Historic District. The written report shall set out the following matters.
  - 1. The exact location of the area in which the work is to be done.
  - 2. The exterior changes to be made or the exterior character of the Structure to be erected.
  - 3. A list of the surrounding Structures with their general exterior characteristics.
  - 4. The effect of the proposed change upon the general historic and architectural nature of the district.
  - 5. The appropriateness of exterior architectural features which can be seen from a public Street or way only.
  - 6. The general design, arrangement, texture, material, and color of the Structures and the relation of such factors to similar features of Structures in the district.
  - 7. The opinion of the Board of Historical Architectural Review (including any dissent) as to the appropriateness of the work proposed as it will preserve or destroy the historic aspect and nature of the district.

8. The specific counsel of the Board of Historical Architectural Review as to the issuance by the Board of Supervisors or its refusal to issue a Certificate of Appropriateness.

## **SECTION 1211. ACTION OF THE BOARD OF SUPERVISORS**

- A. Within thirty (30) days of receipt of the written counsel of the Board of Historical Architectural Review as provided in §1210, the Board of Supervisors shall consider at its regular meeting or at a special meeting the question of issuing to the Zoning Officer a Certificate of Appropriateness authorizing a permit for the work covered by the application.
- B. The Applicant shall be advised of the time and place of the meeting, with a minimum of ten (10) days advance notice, at which his application will be considered and shall have the right to attend and be heard as to his reasons for filing the same.
- C. In determining whether or not to certify to the appropriateness of the proposed erection, reconstruction, Alteration, restoration, demolition, or razing of all or a part of any building within the Historic District, the Board of Supervisors shall consider the same factors and the Board of Historical Architectural Review set forth in §1209 and the report of the Board of Historical Architectural Review.
- D. If the Board of Supervisors approves the application, it shall issue a Certificate of Appropriateness authorizing the Zoning Officer to issue a permit for the work covered.
- E. If the Board of Supervisors disapproves, it shall do so in writing and copies shall be given to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the district.

## **SECTION 1212. DUTIES OF THE ZONING OFFICER**

- A. Upon receipt of the written disapproval of the Board of Supervisors, the Zoning Officer shall disapprove the application for a building permit and/or Certificate of Appropriateness and so advise the Applicant. The Applicant may appeal the disapproval as provided by law.

- B. The Zoning Officer shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Article in the same manner as in his enforcement of other municipal codes as presently enacted and as the same may from time to time be amended.

### **SECTION 1213. STRUCTURAL STANDARDS**

All buildings and Structures shall be preserved against decay and deterioration and maintained free from structural defects by the owner or such other person (or persons) who may have the legal custody and control thereof. The said Owner, or other person having custody and control thereof, shall repair and thereafter maintain said building in accordance with all applicable laws, ordinances, and regulations. The provisions of this Article shall not be construed to:

- A. Require the issuance of a Certificate of Appropriateness prior to undertaking routine maintenance, unless such maintenance includes erection, reconstruction, Alteration, restoration, demolition, or razing all or part of a building.
- B. Require a level or degree of maintenance greater than that required under provisions of other pertinent municipal regulations; nor,
- C. Require any action by the owner (other than preservation against decay, deterioration, repair, and routine maintenance as stipulated in this section) to comply with the intent of this Ordinance before said owner voluntarily chooses to erect, reconstruct, alter, restore, demolish, or raze all or part of any building. It is, however, anticipated that property owners will be stimulated by this Article to undertake the desired erection, reconstruction, Alteration, restoration, demolition, or razing as promptly as consistent with their abilities to do so.

### **SECTION 1214. SIGNS**

- A. Signs erected in the Historic District shall be subject to the provisions of Article XVII and, in addition, shall be subject to the following conditions and requirements.

1. No Sign or permanent external advertising display of any kind shall be erected, altered, or used in the Historic District except for advertising to, or informing the public of, a service, business, occupation, or profession carried on within the property on which such Sign or permanent external advertising display appears.
  2. No billboard, Sign, or advertising display of any kind or for any purpose shall be erected or altered until an application for permit to make such erection or Alteration has been approved by the Board of Historical Architectural Review as reasonably confirming in exterior material composition, exterior structural design, and external appearance with similar advertising or information media used in the architectural period of the Structure and a permit granted therefor.
- B. Off-site direction Signs, consistent with §1702(L) of this Ordinance, shall be permissible within the Historic District.
- C. The Board of Historical Architectural Review may authorize the erection of historical markers relating to sites and Structures within the Historic District, and shall establish standards and criteria for the design and location of such markers.

## **ARTICLE XIII FLOOD HAZARD DISTRICT (FH)**

### **SECTION 1301. FLOOD HAZARD DISTRICT (FH)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purpose of this Section is to minimize the threats to Flood Hazard Areas within the Township from periodic inundation which results in loss of property, loss of life, damage to Structures, injury to people, disruption of public and private activities and services, burdensome public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. The foregoing flood losses are caused by the cumulative effects of obstructions in Flood Hazard Areas causing increases in flood heights and velocities, and the occupancy of Flood Hazard Areas by uses vulnerable to floods. It is the further purpose of this Article to minimize those losses described above the provisions designed to:
1. Regulate or prevent the erection of buildings and other Structures in areas unfit for development by reason of periodic flooding;
  2. Protect public health by preventing pollution of surface and subsurface water supplies and providing surface area to absorb and retain runoff for maintenance of the subsurface water supply;
  3. Protect public safety by preserving natural Floodplains and valley flats which are subject to periodic flooding in order to:
    - a. prevent the increase in flood volume and rate of flow which results from covering the Floodplains with impervious surfaces and from constricting natural drainage channels, and
    - b. provide areas for the deposition of sediment;

4. Prevent added downstream damage from increased Flood volume and rate of flow and to permit uses of the Floodplain compatible with the preservation of natural conditions and the maintenance of the stream flow throughout the year; and
5. Minimize the financial burden imposed on the community, its governmental bodies, and individuals by Floods.

### **SECTION 1301.1 DEFINITIONS APPLICABLE TO THE FLOOD HAZARD DISTRICT REGULATIONS**

#### **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.

#### **BASEMENT**

Means 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.

#### **FLOOD**

A temporary inundation of normally dry land areas.

**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.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**

The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

**HISTORIC STRUCTURE**

Any structure that is:

(1) 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;

(2) Certified or preliminarily determine 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;

(3) Individually listed on a state inventory of historic places in communities with historic preservation programs that have been certified either:

- (i) by an approved state program as determined by the Secretary of the Interior or
- (ii) directly by the Secretary of the Interior in states without approved programs.

**IDENTIFIED FLOODPLAIN AREA**

The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

**LAND DEVELOPMENT**

Any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure;

or

(ii) 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.

(2) A subdivision of land.

#### 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 ordinance.

#### 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, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

#### MANUFACTURED HOME PARK

A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

#### 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 December 19, 1979 and includes any subsequent improvements thereto.

**ONE HUNDRED YEAR FLOOD**

A flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) percent chance of occurring each year, although the flood may occur in any year.

**PERSON**

An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, government unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

**RECREATIONAL VEHICLE**

A vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projects; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

**REGULATORY FLOOD ELEVATION**

The one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 ½) feet.

**REPETITIVE LOSS**

Flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**STRUCTURE**

Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, 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.

**SUBDIVISION**

The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devises, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into

parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

#### 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 fifty (50) percent or more of the market value of the structure before the damage occurred.

#### SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent 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” when repetitive loss language is used) regardless of the actual repair work performed. The term does not, however include either:

- (1) 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 or;
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

#### UNIFORM CONSTRUCTION CODE (UFC)

The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and IBC.

## SECTION 1302. GENERAL PROVISIONS

### A. Definition of Flood Hazard District

The Flood Hazard District is defined and established to be the low areas adjoining and including a water course or other body of water (such as a pond, marsh, or lake) within East Marlborough Township, which are subject to inundation by a flood having a frequency of recurrence of once in one hundred (100) years. The basis for delineation of the Flood Hazard District shall be the following:

1. The identified floodplain area shall be those areas of East Marlborough Township, Chester County, which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) dated September 29, 2006 and the accompanying maps as prepared by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study
2. For 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 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. 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, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township of East Marlborough.

In all cases, the Flood Hazard District shall be prima facie the more extensive area as between the two (2) sources, subject to the provisions of §1302(C).

### B. Zoning Overlay Map

The Flood Hazard District Map of East Marlborough Township, based on the delineations cited in §1302(A) above, shall be deemed an overlay on the otherwise applicable zoning districts as delineated inapplicable to any tract by reason of amendment by the Board of Supervisors, or interpretation of the Zoning Hearing Board or court of competent jurisdiction, the zoning applicable to such tract shall be deemed to be the district in which it is located without

consideration of this Article. No reductions in the Flood Hazard District shall be made without prior consultation with and approval of the Federal Insurance Administrator.

C. Rules of Interpretation of District Boundaries

1. The boundaries of the Flood Hazard District, where based on the Flood Insurance Rate Map ("FIRM") shall be determined by scaling distances of the FIRM. Where interpretation is needed as to the exact location of the boundaries of the district as shown thereon, as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, an initial determination of the exact boundary of the area subject to inundation by a Flood of once in one hundred (100) years frequency of recurrence shall be made by the Township Engineer and a written report made to the Board of Supervisors.
2. Any party aggrieved by any such determination of the Township Engineer or other decision or determination under this Article, may appeal to the Zoning Hearing Board. The person contesting the location of the district boundary shall have the burden of proof in case of any such appeal.
3. Such interpretation by the Township Engineer or Zoning Hearing Board shall not constitute a reduction of the Flood Hazard District for purposes of requiring prior approval of the Federal Insurance Administrator.

D. Compliance.

No Structure, land, or water shall hereafter be used or developed, and no Structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions

It is not intended by the Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.

F. Warning and Disclaimer of Liability

1. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific study. Larger floods may occur on real occasions or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings constricted by debris. In such instances, areas outside the Flood Hazard District or land uses permitted within the district may be subject to flooding or flood damages.
2. This Article shall not create liability on the part of East Marlborough Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

### **SECTION 1303. USES IN THE FLOOD HAZARD DISTRICT**

The following uses and no others (unless by Special Exception or Variance granted by the Zoning Hearing Board) are permitted in the Flood Hazard District.

#### **A. Permitted Uses**

The following open space uses shall be permitted within the Flood Hazard District to the extent that they are not prohibited by any other ordinance and provided that they do not require Structure, fill, or storage of materials or equipment.

1. Agricultural uses such as general farming, pasture, orchard, grazing, outdoor plant Nurseries, truck farming, forestry, and wild crop harvesting.
2. Recreational uses such as parks, camps, picnic grounds, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, and swimming areas.
3. An area comprising, for purposes of determining Lot Area, one-quarter ( $\frac{1}{4}$ ) of the required minimum Lot Area for any Lot contiguous to the Flood Hazard District, and provided that no Structure and no sanitary drainage field shall be placed within fifty (50) feet of the Flood Hazard District boundary line where the setback requirement of any other zoning district is less than fifty (50) feet.

4. Up to one-quarter ( $\frac{1}{4}$ ) of the open space designated in any Cluster Development under Article XV, provided the Flood Hazard District is contiguous to the development and provided that no Structure shall be placed less than twenty-five (25) feet from any Flood Hazard District boundary.
5. Permeable parking areas and roads to serve other permitted uses in the Flood Hazard District, or where required by the regulations for any contiguous district.

Any of the uses listed above shall not be permitted within the designated Floodway unless the effect of the proposed development or use in flood heights is fully offset by accompanying stream improvements.

B. Uses by Special Exception

The following uses are permitted only upon the granting of a Special Exception by the Zoning Hearing Board, in accordance with §912.1 of the Pennsylvania Municipalities Planning Code, as amended.

1. Accessory Uses customarily incidental to any of the foregoing permitted uses.
2. Circuses, festivals, and similar transient amusement enterprises.
3. Roadside stands and Signs.
4. Railroads, roads, bridges, and utility transmission lines.
5. Sealed water supply wells, water pipelines, and sanitary sewer line systems, provided that they are designed and constructed to eliminate infiltration of flood water into the systems and discharges from the systems into the waters of the Commonwealth.
6. Storm and sanitary sewer outlets, sewage treatment plants and pumping stations, water pumping stations and water treatment plants, and storm sewer systems, subject to the approval of the Department of Environmental Protection, Regional Office, of the Commonwealth and the Township Engineer, provided that such facilities shall be designed and constructed to eliminate infiltration of flood waters into the systems and discharges from the systems into the waters of the Commonwealth.

7. Grading or fill, provided that the effect is not to alter substantially the cross-sectional profile of the stream basin at the point of the proposed use. A prerequisite to the granting of a Special Exception for fill or grading shall be the issuance of necessary permits from the Division of Dams and Encroachments of the Pennsylvania Department of Environmental Protection, Regional Office. All requests for a change of grade shall be accompanied by a detailed engineering report, including maps, showing all existing contours and with the reasons for requesting the change. In no case shall fill be used which in any way will contaminate or pollute the streams if the requested change is allowed.
8. Dams, culverts, and bridges when approved by the Department of Environmental Protection, Regional Office of the Commonwealth and the Township Engineer.

C. Existing Structures and Uses in the Flood Hazard District

Existing Structures and uses of land within the Flood Hazard District which do not conform to the requirements of this Article shall comply with the following regulations.

1. Existing Structures located in the Floodway shall not be expanded or enlarged.
2. The modification, Alteration, repair, reconstruction, or improvement of any kind to an existing Structure in a Floodway must be authorized as a Special Exception by the Zoning Hearing Board, which shall give particular consideration to the factors cited in §1305 of this Article. In addition, any repair, reconstruction, or improvement meeting the definition of "Substantial Improvement" under Article II shall further comply with the requirements of §1306(A).
3. Existing uses located in the Floodway may be expanded when authorized as a Special Exception by the Zoning Hearing Board, provided there will be no increase in the base flood level within the Floodway. The Zoning Hearing Board shall give particular consideration to §1306(A)1.
4. The modification, expansion, enlargement, Alteration, repair, reconstruction, or improvement of any kind to an existing Structure or use located in a Flood fringe or approximated Floodplain must be authorized as a Special Exception by the Zoning Hearing Board. The Zoning Hearing Board shall give particular consideration to the factors cited in §1305. In addition, any activity meeting the definition of

“Substantial Improvement” under Article II shall further comply with the requirements of §1306.

5. Any modification, Alteration, reconstruction or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Ordinance

D. Uses Which May Endanger Human Life are Prohibited

1. The provisions of this subsection shall be applicable in addition to all other applicable provisions of this Ordinance or any other ordinance, code, or regulation.
2. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved Structures involving any one or more of the following uses shall be subject to the provisions of this section, in addition to all other applicable provisions.
  - a. The production, storage, or use of any amount of radioactive substances.
  - b. The production or storage of any of the following dangerous materials or substances, or any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of said dangerous materials or substances the premises:
    - i. acetone
    - ii. ammonia
    - iii. benzene
    - iv. calcium carbide
    - v. carbon disulfide
    - vi. celluloid
    - vii. chlorine
    - viii. hydrochloric acid

- ix. hydrocyanic acid
  - x. magnesium
  - xi. nitric acid and oxides of nitrogen
  - xii. petroleum products, including gasoline and fuel oil
  - xiii. phosphorus
  - xiv. potassium
  - xv. sodium
  - xvi. sulphur and sulphur products
  - xvii. pesticides, including insecticides, fungicides, and rodenticides
  - xviii. radioactive substances, insofar as such substances are not otherwise regulated
3. In addition, 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 subject to the provisions of §1303(D) and shall be strictly prohibited.
- a. Hospitals.
  - b. Assisted Living Facilities or Rehabilitation Facilities.
  - c. Correctional or penal institutions.
  - d. Manufactured Home Park or Manufactured Home Park subdivision.
4. Within any Flood Hazard District, any Structure or substance of the kind described in §1303(D)2 and §1303(D)3 above shall be prohibited.
5. Except for a possible modification of the freeboard requirements involved, no Variance shall be granted from any of the other requirements of this §1303(D) with respect to uses or activities within the Floodway portion of the Flood Hazard District, in that the uses regulated by such section are hazardous to the public health, safety, and general welfare.

6. Where permitted within any Flood Hazard District in spite of §1303(D)4 of this Ordinance, any Structure of the kind described in §1303(D)2 shall be:
  1. elevated or designed and constructed to remain completely dry up to at least one and one-half (1½) feet above the One Hundred (100) Year Flood, and
  2. designed to prevent pollution from the Structure or activity during the course of a One Hundred (100) Year Flood.

Any such Structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry Flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

#### **SECTION 1304. USES BY VARIANCE**

In any instance where the Zoning Hearing Board is required to consider a request for a Variance from the provisions of this Article, the Zoning Hearing Board shall first determine that the standards and criteria enumerated in §910.2 of the Pennsylvania Municipalities Planning Code are met before granting the request. In considering whether the proposed use would be injurious to the public health, welfare, or safety, the Zoning Hearing Board shall give special and particular consideration to the factors enumerated in §1305, herein below.

#### **SECTION 1305. FACTORS TO BE CONSIDERED BY THE ZONING HEARING BOARD**

- A. Factors to be considered by the Zoning Hearing Board in passing upon each application for a Special Exception for a Variance are as follows.
  1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No Special Exception or Variance shall be granted for any development, use or activity within the Floodway portion of the Flood Hazard District unless the effect of the proposed development on Flood heights is fully offset by accompanying stream improvements.

2. The danger that materials may be swept onto other lands or downstream to the injury of others.
  3. The proposed water supply and sanitation systems and the ability of those systems to avoid causing disease, contamination, and unsanitary conditions.
  4. The susceptibility of the proposed use to Flood damage and the effect of such damage on the owner.
  5. The importance of the proposed use to the community.
  6. The requirements of the use for a waterfront location.
  7. The availability of alternative locations, not subject to Flooding, for the proposed use.
  8. The compatibility of the proposed use with existing and foreseeable nearby uses.
  9. The relationship of the proposed use to the Comprehensive plan and the Floodplain management program for the area.
  10. The safety of access to the property in times of Flood for ordinary and emergency vehicles.
  11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.
  12. Such other factors which are relevant to the purposes of this Ordinance.
- B. Affirmative decisions shall only be issued by the Zoning Hearing Board upon:
1. A showing of good and sufficient cause;
  2. A determination that failure to grant the appeal would result in unnecessary hardship to the Applicant; and
  3. A determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisance, fraud upon or victimization of the public, or conflict with existing local laws and ordinances.

- C. Affirmative decisions shall only be issued upon determination that it is the minimum necessary, considering the flood hazard, to provide relief.
- D. The Zoning Hearing Board shall notify the Applicant in writing over the Signature of the chairman that the issuance of a decision to allow construction of a Structure below the One Hundred (100) Year Flood elevation will result in increased premium rates for flood insurance, and that such construction below the One Hundred (100) Year Flood elevation increases risk to life and property. Such notification shall be maintained with a record of all decisions as required below.
- E. The Zoning Hearing Board shall maintain a record of all decisions including jurisdiction for their issuance and shall report such decisions issued in its annual report submitted to the Federal Insurance Administration.

## **SECTION 1306. CONDITIONS FOR SPECIAL EXCEPTION AND VARIANCE**

- A. Construction Techniques for Flood Protection

Upon consideration of the purposes of this Article, the Zoning Hearing Board shall attach such conditions to the granting of a Special Exception or Variance as it deems necessary to further the purposes of this Article, including, without limitation because of specific enumeration, the following.

- 1. Any new construction or Substantial Improvement to an existing Structure shall have the lowest floor (including Basement) elevated to one and one-half (1½) feet above the regulatory flood elevation of the Flood Hazard District at the place of construction. Fully enclosed spaces below the lowest floor shall be prohibited. Partially enclosed space below the lowest floor (including basement) 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term “partially enclosed space” also includes crawl spaces. 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 (1) square inch for every square foot of enclosed space;
  - b. the bottom of all openings shall be no higher than one (1) foot above grade; and

- 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.
2. All such Structures shall be securely anchored to prevent flotation, collapse, and lateral movement. All such Structures shall employ construction materials and techniques to minimize flood damage. Adequate drainage shall be provided. The elevation of the proposed lowest floor shall be indicated on the application for a building permit. The provisions of all other state and federal rules and regulations are applicable to such construction. Other flood-proofing measures may include, without limitation because of specific enumeration, the following.
  - a. Installation of watertight doors, bulkheads, and shutters.
  - b. Reinforcement of walls to resist water pressure.
  - c. Use of paints, membranes, or mortars to reduce seepage of water through walls.
  - d. Addition of mass or weight to Structures to resist flotation.
  - e. Installation of pumps to lower water levels in Structures.
  - f. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
  - g. Pumping facilities for subsurface external foundation wall and Basement floor pressures.
  - h. Construction to resist rupture or collapse caused by water pressure or floating debris.
  - i. Cutoff valves on sewer lines or the elimination of gravity flow Basement drains.
3. All Manufactured homes and additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be:
  - a. Over-the-top ties shall be provided at each of the four(4) corners of the Manufactured home, with two (2) additional ties per side at intermediate locations.

Manufactured homes less than fifty (50) feet long shall require only one (1) additional tie per side.

- b. Frame ties shall be provided at each corner of the Manufactured home with five (5) additional ties per side at intermediate points. Manufactured homes less than fifty (50) feet long shall require only four (4) additional ties per side.
  - c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
4. All Manufactured homes whether placed in a new, expanded, or substantially improved Manufactured home park or placed on an individual Lot shall adhere to the following requirements.
- a. The stands for Lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the Manufactured home will be at or above the regulatory flood elevation.
  - b. Adequate surface drainage shall be provided.
  - c. Adequate access for a hauler shall be provided.
  - d. Where pilings are used for elevation, the Lots shall be large enough to permit steps. Piling foundations shall be placed in stable soil no more than ten (10) feet apart. Reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.
5. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Township officials for Manufactured home parks and Manufactured home subdivisions where appropriate.
6. No Manufactured home shall be placed in the Floodway.

No encroachment, Alteration, relocation, or improvement of any kind shall be made to any water course until all adjacent municipalities, which may be affected by such action, have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams, Waterways and Wetlands.

B. Declaration of Flood Hazard Status

In any case where a Zoning Hearing Board shall grant a Special Exception or a Variance to permit the erection of a Structure in the Flood Hazard Area, or a Special Exception or a Variance to permit a change in Non-Conforming Use of a Structure already existing in the Flood Hazard Area, the Zoning Hearing Board shall, for the protection of prospective purchasers and lessees, impose the following conditions.

1. The Applicant shall be required to advise prospective purchasers or lessees that the Lot is located either entirely or partially, as the case may be, in the Flood Hazard District.
2. Before settlement or change in use, as the case may be, may take place, the purchaser or lessee shall be required to Signify in writing that he has been advised that the premises lie partially or entirely in the Flood Hazard District, and a Signed copy of such Signification shall be delivered to the Township by the Applicant.
3. A deed restriction shall be created and placed on record to run as a covenant with the land, which restriction shall contain the following provision: "This Lot is entirely [or "partially"] within a Flood Hazard Areas as defined by §1302(A) of the East Marlborough Township Zoning Ordinance."

## **SECTION 1307. ADMINISTRATION**

### **A. Procedure**

1. In a Flood Hazard Areas, as defined in §1302 herein, a Zoning Permit shall be required for any man-made change to improved or unimproved real estate, including but not limited to buildings or other Structures, the placement of Manufactured homes, Streets and other paving, utilities, mining, dredging, filling, grading, excavating, or drilling operations. Application for a Zoning Permit shall be filed with the Zoning Officer who shall make an initial determination on the application. For a use other than those permitted in §1303(A), an application seeking approval of a Special Exception or Variance shall be forwarded to the Zoning Hearing Board along with required studies or information and the findings of the Zoning Officer.
2. Upon receiving an application for a Special Exception or Variance, the Zoning Hearing Board shall, prior to rendering a decision thereon, require

the Applicant to furnish such of the following material as is deemed necessary by the Zoning Hearing Board:

- a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the Lot and existing and proposed uses. Soil types and other pertinent information shall also be shown.
  - b. Photographs showing existing uses and vegetation.
  - c. A series of cross-sections at twenty-five (25) foot intervals along the Lot shoreline, showing the stream channel or lake or pond bottom, elevation of adjoining land areas to be occupied by the proposed uses, and high-water information. Cross-sections shall be field run topography based on a known USGS benchmark.
  - d. Profile showing the Slope of the bottom of the channel, lake, or pond.
  - e. Specifications for building material and construction, flood proofing, filling, dredging, grading, storage, water supply, and sanitary facilities.
  - f. Computation of the increase, if any, in the height of flood stages which would be attributable to any of the proposed uses.
  - g. The elevation of the one (100) year flood.
  - h. 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 one hundred (100) year flood
  - i. Such statement shall include a description of the type and extent of the flood proofing measures which have been incorporated into the design of the structure and/or the development.
- B. Consultation by the Zoning Hearing Board

In considering any application for a Special Exception or Variance, the Zoning Hearing Board may request at the hearing the testimony of the Board of Supervisors, the Planning Commission, the Township Engineer, and/or other technical experts, concerning the extent to which the proposed use would:

1. diminish the capacity of the Flood Hazard District to store and absorb flood waters, moderate flood velocities, and accommodate sediment;
2. be subject to flood damage;
3. cause erosion and impair the amenity of the Flood Hazard District; and
4. adversely affect the area contiguous to the Flood Hazard District as well as areas downstream.

### **SECTION 1308. SPECIFIC PROHIBITIONS**

In addition to and without limitation of the uses specifically permitted in the Flood Hazard District by the provisions of this Article, the following activities are specifically prohibited in the Flood Hazard District.

- A. The clearing of vegetation, except for brush, weeds, and diseased shrubs or trees or portions of thereof which might cause hazard to life or property, and except where such clearing is necessary for construction permitted as a result of action by the Zoning Hearing Board.
- B. Sod farming.
- C. Storage of any material which, if inundated, would float.
- D. Storage of flammable or toxic material or any other material which, if inundated, would degrade or pollute the stream, or cause damage if swept downstream.
- E. Installation or maintenance of on-site sewage disposal systems and wells.
- F. Placement or Substantial Improvement of a Manufactured home.
- G. Alteration or relocation of any water course, unless and until the Applicant has notified the governing bodies of the adjacent municipalities and the Pennsylvania Department of Community and Economic Development, with copies of such notices being sent to the Federal Flood Insurance Administrator, and demonstrated to the satisfaction of the Township Engineer that the flood-carrying capacity of the water course, as altered or relocated, is maintained at a level equal to or better than the existing flood-carrying capacity. This requirement shall be in addition to the requirements of the Pennsylvania

Department of Environmental Protection pertaining to such Alteration or relocation.

### **SECTION 1309. BURDEN OF PROOF**

In all proceedings before the Zoning Hearing Board, including applications for Special Exception from the provisions of this Article, the burden of proof shall be on the Applicant to show that the use required will be in general conformity with the objectives of this Article, that proper safeguards will be observed, and that the use will not be injurious to the public health, safety, and general welfare.

### **SECTION 1310. UNIFORM CONSTRUCTION CODE COORDINATION**

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this ordinance, to the extent that they are more restrictive and/or supplement the requirements of this ordinance.

International Building Code (IBC) 2003 or the latest edition thereof;  
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402 and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof  
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

## **ARTICLE XIV GROUNDWATER PROTECTION DISTRICT (GP)**

### **SECTION 1401. GROUNDWATER PROTECTION DISTRICT (GP)**

- A. In addition to the general goals listed in the Purposes (§102) and Community Development Objectives (§103) of this Ordinance, the purpose of this Section is to protect a uniquely sensitive and valuable groundwater resource area, defined by a carbonate geologic formation identified in the East Marlborough Township Comprehensive Plan, against land development patterns that would deplete the groundwater supply through excess demand, threaten its quality through wastewater pollution, inhibit the recharge capability of the area through exorbitant impervious surface areas, and increase the danger of land subsidence and sinkholes.
- B. The GP Groundwater Protection District shall be deemed an overlay on the applicable zoning district, and shall be shown on the East Marlborough Township Groundwater Protection Overlay Map.
- C. In the GP Groundwater Protection District, all provisions of this Article shall apply, unless superseded by a more stringent regulation of the Base Zoning district.

### **SECTION 1402. USE REGULATIONS**

- A. A Lot or premises may be used in accordance with the use regulations of the Base Zoning district in which it is situated.
- B. Up to seventy-five (75) percent of the Common Open Space established from Cluster Development in an adjacent zoning district.

### **SECTION 1403. AREA AND BULK REGULATIONS**

The area and bulk regulations of the Base Zoning district shall apply to all land situated in the GP overlay district.

## SECTION 1404. GENERAL PROVISIONS

### A. Definition of Groundwater Protection District

The Groundwater Protection District coincides with the carbonate or limestone geologic formation and includes all of the following areas:

1. The area designated and identified in the East Marlborough Township Comprehensive Plan as the limestone area; and,
2. All lands containing Class 3 soils for urban suitability as identified in the soil legend for Chester County soils, surveyed and published by the U.S. Department of Agriculture. Class 3 soils consist of all Hagerstown Silt Loam (Ha), all Conestoga Silt Loam (Cm) and all Hollinger Silt Loam (Ho), which soils are associated with underlying carbonate or limestone geologic formations. The source of these designations is the U.S. Soil Conservation Service Soil Survey, Chester and Delaware Counties, Pennsylvania, May 1963.

### B. Zoning Overlay Map

The Groundwater Protection Map of East Marlborough Township, based on the boundaries described in §1404(A), shall be deemed an overlay on the otherwise applicable zoning districts and delineated on the Township Zoning Map. Should the Groundwater Protection District be declared inapplicable by reason of amendment by the Board of Supervisors, or interpretation of the Zoning Hearing Board or Court of competent jurisdiction, the zoning applicable to such tract shall be deemed to be the district in which it is located without consideration of this Article.

### C. Rules of Interpretation of District Boundaries

The boundaries of the Groundwater Protection District shall be determined by scaling the distances on the GP Overlay Map. Where interpretation is needed with respect to the exact location on the boundaries of the District as shown thereon, as for example, where there appears to be conflict between a mapped boundary and actual field conditions, an initial determination of the exact boundary of the carbonate area shall be made by the Township Engineer and a written report made to the Board of Supervisors.

D. Compliance

No Structure, land or water shall hereafter be used or developed and no Structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions

It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.

F. Warning and Disclaimer of Liability

1. In carbonate areas, development of land creates the potential for certain problems, including greater probability of onsite sewage disposal system malfunctions; greater chance, owing to such malfunction, of contamination of bedrock aquifers; and potential for structural failure due to land subsidence.
2. This Article shall not create any liability on the part of East Marlborough Township or any other officer or employee thereof for any damages that result from reliance on this Ordinance or any administrative decisions lawfully made hereunder.

## **SECTION 1405. PROCEDURES**

Prior to the issuance of a Zoning Permit for the construction of any principal building within a GP Overlay District, the Landowner shall ensure that the proposed construction, and any sewage effluent associated therewith, shall be in compliance with the performance standards set forth in §1406 of this Ordinance. Where the proposed development requires subdivision or land development approval prior to issuance of a Zoning Permit, the procedures to ensure compliance with the performance standards shall precede or accompany the preliminary plan application. The following specific procedures shall be followed.

- A. The Landowner shall notify the Township Secretary of his intent to develop property within the GP Overlay District, and shall submit a map which can be based upon a tracing of existing Chester County Tax Map information, outlining the area proposed for development.

- B. The Secretary shall notify the Township Engineer of the Landowner's intent to develop, and forward to him a copy of the plan submitted.
- C. The Engineer, after reviewing the existing aerial photos, soils, geological and related data available to him as it may pertain to the subject property, shall make a site inspection of the property. The time for the site inspection shall be arranged by the Township Secretary for a mutually convenient time, to enable the Landowner to accompany the Township Engineer. In addition, the Engineer will request the presence of a member of the staff of the Chester County Health Department and/or Soil Conservation Service, if in his opinion their assistance in the site inspection would be helpful. The Landowner is encouraged, but not required, to engage a qualified engineer to be present at the site inspection.
- D. At the site inspection, the Township Engineer, using all available data and with such assistance as is needed, shall determine the presence or absence of karst surface feature of the site, and locate the same if present. In particular, the following features shall be located, if present on the site:
1. Closed depressions
  2. Open sinkholes
  3. Seasonal high water table indicators
  4. Outcrops of bedrock
  5. Limestone fragments in soil
  6. Unplowed areas in plowed fields
  7. Surface drainage into ground
  8. "Ghost lakes" after rainfall
  9. Land surface mottling (from air photos).
- E. Based upon the site inspection, the Engineer shall determine what further testing should be done by the Landowner to ensure compliance with the performance standards set forth in §1406. The Engineer shall notify the Landowner of what further testing, if any, shall be required. Testing methodology may include, but need not be limited to, soil permeability tests and tests to determine depth to bedrock. Testing methodology required by the Engineer shall be reasonable under the circumstances, including (1) the scale of

the proposed development, and (2) the hazards revealed by examination of available data and site inspection.

- F. The Landowner shall cause the additional testing, if any, to be effected and shall submit test results to the Engineer.
- G. The Engineer shall report to the Board of Supervisors, with a copy to the Landowner, his opinion concerning the capability of the site to support the proposed development in a manner in which the risks attendant to development in carbonate areas are either eliminated or minimized. The report shall delineate areas from which on-site sewage disposal shall be excluded or restricted, if any, and shall contain recommendations for minimizing the runoff of storm water from the site. If the proposed development requires subdivision or land development approval prior to issuance of a Zoning Permit, the report may contain recommendations for site planning, including the use of Lot Averaging or Cluster Development technique, or a reduction in density from the maximum density otherwise provided for herein.

#### **SECTION 1406. PERFORMANCE STANDARDS**

- A. No Zoning Permit shall be issued for the construction of a building or other Structure utilizing a means or location of sanitary sewage disposal which, owing to soil conditions, water table elevation, depth to bedrock, or other factors, would create a risk of sewage effluent entering the groundwater without adequate filtration.
- B. No Zoning Permit shall be issued for the construction of a building or other Structure, the location of which would create a risk of structural damage from future land subsidence.
- C. No Zoning Permit shall be issued for the construction of a building or other Structure unless the rate of storm water runoff for the Lot, during any storm up to one (1) in 100-year frequency, shall not exceed that which would have occurred from the land prior to development. Alternatively, if subdivision or land development is required for the tract before issuance of a Zoning Permit, the same restriction shall apply for the tract as a whole.
- D. Issuance of a Zoning Permit may be made conditional upon the Landowner providing facilities to minimize the increase in total storm water runoff over and above that which would have occurred from the land prior to development, such as retention berms or basins which provide for percolation of storm water, cisterns, French drains, seepage pits, and seepage terraces.

**SECTION 1407. PROHIBITED ACTIVITIES**

Notwithstanding any regulations contained herein to the contrary, the following activities are specifically prohibited in the Groundwater Protection District.

- A. The below-ground storage of heating oil, gasoline, chemical solutions, or other substances which, if released from a container, would constitute pollutants to groundwater.
- B. The filling of sinkholes with any material other than Clean Fill or rock.

**SECTION 1408. COSTS**

The Board of Supervisors of East Marlborough Township specifically finds that it is equitable and in the public interest for the Township to bear a portion of the costs associated with the review, field testing and reporting procedures prescribed in §1405. Hence, the costs thereof shall be borne as follows:

- A. The cost of data study and site inspection by the Township Engineer and the subsequent report as specified in §1405(C), §1405(D), and §1405(E) shall be equally divided between the Township and the Landowner.
- B. The cost of any additional testing and reports as specified in §1405(F) and §1405(G) shall be divided so that the Township will bear twenty (20) percent of the cost and the Landowner shall bear eighty (80) percent of the cost.
- C. East Marlborough Township shall not be responsible nor bear any of the cost of any other engineering or testing expenses and in the event that the Landowner wishes to engage their own engineer, the Landowner shall be responsible for all costs thereof.

## **ARTICLE XV**

### **PLANNED RESIDENTIAL DISTRICT (PRD)**

#### **SECTION 1501. PURPOSES**

The purposes of this Article are:

- A. To insure that the provisions of the East Marlborough Township Zoning Ordinance which are concerned with uniform treatment of Dwelling type, bulk, density, and open space within each zoning district shall not be applied to the improvement of land by other than Lot-by Lot development in a manner which would not distort the objectives of that Zoning Ordinance.
- B. To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type, design, and layout of Dwellings and by the conservation and more efficient use of open space ancillary to said Dwellings.
- C. To provide greater opportunities for better housing and recreation for all who are or will be residents of the Township.
- D. To encourage a more efficient use of land and public services and to reflect changes in the technology of land development so that economies so secured may inure to the benefit of those who need homes.
- E. To encourage more flexible land development which will respect and conserve natural resources such as streams, lakes, Floodplains, groundwater, wooded areas, steeply Sloped areas, prime agricultural land, and areas of unusual beauty or importance to the natural ecosystem.
- F. To encourage innovations in residential developments that are designed to minimize energy consumption and maximize recycling of material in their layout, transportation, climate control, energy sources, and solid and liquid waste treatment systems.

G. To provide a procedure which can relate the type, design, and layout of residential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential areas, and to assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious, and fair administrative standards and procedures.

## **SECTION 1502. ELIGIBILITY**

No application for tentative approval of a Planned Residential Development shall be considered or approved unless the following conditions are met:

- A. The Planned Residential Development consists of a contiguous area of at least seventy-five (75) acres.
- B. The development will be served by public water and sewage disposal systems, which shall be constructed at the time construction of the Structures in the Planned Residential Development begins.
- C. The proposed development is found to be generally consistent with the Comprehensive Plan of East Marlborough Township.
- D. The Planned Residential Development shall be entirely within the area designated as eligible for Planned Residential Development on the Planned Residential Development overlay map which is declared to be a part of this Ordinance, provided that up to 75% of Common Open Space attendant to a Planned Residential Development adjacent and contiguous to the GP District, may be provided within the area zoned GP, as authorized by §1402(B).
- E. The tract of land to be developed shall be in one (1) ownership, or if in multiple ownership, shall be developed according to a single plan with common authority and responsibility.
- F. The development will contain a mix of housing units which, when fully constructed, will result in a total of not more than thirty (30) percent of Dwellings within the Township being, collectively, Two-Family and Multi-Family units.

**SECTION 1503. PERMITTED USES**

A Planned Residential Development may include the following uses.

- A. Subject to compliance with §1502(F) of this Ordinance, residential uses including Single Family detached, Two-Family, and Multi-Family Dwellings, within the following percentage limitations.

Percent of Total Dwelling Units  
Required for Each Type of Residence

Single Family	50% minimum
Duplexes	50% maximum
Quadraplexes	50% maximum
Townhouses	30% maximum
Multi-storied Apartment Buildings	20% maximum

- B. Recreational uses deemed appropriate by the Board of Supervisors for incorporation into the design of the development.
- C. In order to demonstrate compliance with the requirements of §1502(F) of this Ordinance, the Applicant shall supply the following data.
  1. The number of existing Single Family Dwellings within the Township.
  2. The number of Single Family Dwellings for which a building permit has been issued, but for which an occupancy permit has not been issued.
  3. The number of Single Family building Lots within finally approved development or subdivisions of three (3) or more Lots for which building permits have not been issued.
  4. The number of existing Two-Family and Multi-Family Dwellings within the Township.
  5. The number of Two-Family and Multi-Family Dwellings for which a building permit has been issued, but for which an occupancy permit has not been issued.
  6. The number of Two-Family and Multi-Family Dwellings within finally approved developments or subdivisions of three (3) or more Dwelling Units.

The Applicant shall be deemed to be in compliance with §1502(F) of this Ordinance when, as of the date of tentative plan submission, the number of Two-Family and Multi-Family Dwellings proposed by the Applicant, when added to the total of items 4, 5, and 6 of this §1503(C), shall be thirty (30) percent or less of the number of Single Family Dwellings proposed by the Applicant, when added to the total of items 1, 2, 3, 4, 5, and 6 of §1503(C) above. The formula can be stated as follows:

$$(A + B) / (C + D) \leq 0.30$$

Where “A” is the number of Multi-Family and Two-Family Dwellings proposed; “B” is the total of items 4, 5, and 6 of this §1503(C); “C” is the number of Single Family Dwellings proposed; and “D” is the total of items 1, 2, 3, 4, 5, and 6 of this §1503(C).

## **SECTION 1504. DEVELOPMENT STANDARDS**

### **A. General site design and natural features analysis.**

A well-designed Planned Residential Development, integrated with existing social and natural processes, and making efficient use of common services, should be an asset to the community. The site designer and architect, working together, must demonstrate to the satisfaction of the Township Supervisors that they consider both the opportunities provided and the constraints imposed by the existing natural and social features both on and off the site of the proposed development in determining site layout (including the selection of areas for open space) and design of Structures. Each must consider, for example, the effects of prevailing winds, seasonal temperatures, and hours of sunlight in both site and architecture.

In order to determine which specific areas of the total Planned Residential Development site are best suited for high density development, which areas are best suited for lower density development, and which areas should be preserved in their natural state as open space areas, a thorough analysis of the natural features of the site will be required. The following subject categories must be included in this analysis.

1. **HYDROLOGY.** Analysis of natural drainage patterns and water resources including an analysis of streams, natural drainage swales, ponds or lakes, marsh areas, Floodplain areas, permanent high water table areas, and seasonal high water table areas throughout the site.

2. GEOLOGY. Analysis of characteristics of rock formations underlying the site, including definition of aquifers (particularly those locally subject to pollution), shallow bedrock areas, and areas in which rock formations are unstable.
3. SOILS. Analysis of types of soils present in the site area including delineation of prime agricultural soil areas, aquifer recharge soil areas, unstable soils, soils most susceptible to erosion, and soils suitable for urban development. The analysis of soils will be based on the Chester and Delaware County Soil Survey published by the USDA Conservation Service.
4. TOPOGRAPHY. Analysis of terrain of site including mapping of elevation and delineation of Slope areas over twenty-five (25) percent, between fifteen (15) percent and twenty-five (25) percent, between eight (8) percent and fifteen (15) percent, and under eight (8) percent.
5. VEGETATION AND WILDLIFE. Analysis of tree and plant cover and wildlife habitats of the site, emphasizing the location of woodland and meadowland areas. Dominant tree, plant, and animal species should be identified and the characteristics of each understood.
6. MICRO-CLIMATE. Analysis of seasonal temperatures, seasonal precipitation, seasonal prevailing winds, and daily hours of sunlight in specific areas of the Planned Residential Development site.

The Board of Supervisors shall require site planning to be in accord with the results of such analysis, and may require modifications where, in their opinion, site planning has been insufficiently attentive thereto.

- B. Density of development and amount of open space:
1. The maximum allowable average gross residential density for Planned Residential Developments shall be two (2) Dwelling Units per Adjusted Acre of land.
  2. In addition to the Flood Hazard Areas as designated on the East Marlborough Township Flood Hazard Overlay Map, which must be designated as and used exclusively for Common Open Space, a minimum of forty-five (45) percent of the gross acreage of a Planned Residential Development shall be designated as and used exclusively for Common Open Space, provided however, that the total Common Open Space shall not be required to exceed fifty-five (55) percent of the gross acreage of the tract.

C. Design, bulk, and location standards.

1. Site design standards.

- a. All housing shall be designed with regard to topography and natural features of the site. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed buildings shall be taken into account.
- b. All housing shall be placed so as to enhance privacy and insure natural light for all principal rooms.
- c. Housing and other facilities near the periphery of the Planned Residential Development shall be designed so as to be harmonious with neighboring areas.

This shall be reflected within the various structural types within the site. All architectural design must meet with the approval of the Planning Commission.

- d. Development in environmentally sensitive area is subject to the following limitations:

<u>Type of Land</u>	<u>Limitation</u>
Flood Hazard Area	No units permitted.
Slope of 25% or more	No units permitted.
Slope of 15% to 25%	Maximum total disturbance of soil surface or stripping of vegetation by methods including but not limited to cutting, grading, filling, bulldozing, plowing, re-grading, digging, or defoliation shall not exceed 5% of the total area within 15% to 25% Slope.

2. Conservation of trees and natural features.

- a. The development shall be designed and programmed so as to minimize earthmoving, erosion, tree clearance, and the

destruction of natural amenities. All existing stands of trees shall be plotted on tentative and final plan submissions.

- b. No portions of tree masses or trees with caliper of four (4) inches or greater shall be removed unless clearly necessary for effectuation of the proposed development. The burden of proof for this necessity shall rest with the Developer. Developers shall make all reasonable efforts to harmonize their plans with the preservation of existing trees. The Planning Commission will satisfy itself on this by on-site inspection before any trees are removed.
- c. When effectuation of a proposed Development necessitates the clearing of trees or portion of tree masses, the Developer shall be guided by the following criteria in selecting trees and ornamentals for retention or clearing.
  - i. Aesthetic values. Including autumn coloration, type of flowers or fruit, bark and crown characteristics, amount of die-back present.
  - ii. Susceptibility of tree to insect and disease attack and to air pollution.
  - iii. Species longevity.
  - iv. Wind firmness and characteristics of soil to hold trees.
  - v. Wildlife values: e.g., oak, hickory, pine, walnut, and dogwood have high food value.
  - vi. Comfort to surroundings: e.g., hardwoods reduce summer temperatures more effectively than pines or cedars.
  - vii. Existence of disease, rot, or other damage to the tree.
  - viii. Protection of buildings. Dead and large limbs hanging over buildings should be removed.
  - ix. The size of the tree at maturity.
- d. Developers shall exercise care to protect remaining trees from damage during construction. The following procedures shall be followed in order to protect remaining trees.

- i. Where existing ground levels are raised, drainage tiles shall be placed vertically at the old soil level and tops brought up to the surface of the ground and filled with coarse crushed stone or gravel. The tiles should be placed to the perimeter of the drip line of the tree and at a maximum of four (4) feet apart.
  - ii. Trees within twenty-five (25) feet of a building or bordering entrances or exits to building sites shall be protected by a temporary barrier.
  - iii. No boards or other material shall be nailed to trees during construction.
  - iv. Heavy equipment operators shall be warned to avoid damaging existing tree trunks and roots. Roots shall be cut no closer than within fifteen (15) feet of the tree trunk.
  - v. Tree trunks and exposed roots damaged during construction shall be protected from further damage by being treated immediately with professional procedures.
  - vi. Tree limbs damaged during construction shall be sawed in accordance with approved professional pruning techniques.
  - vii. The operation of heavy equipment over root systems of such trees shall be minimized in order to prevent soil compaction.
  - viii. Non-dormant trees shall be given a heavy application of fertilizer to aid in their recovery from possible damage caused by construction operations.
  - ix. Construction debris shall not be disposed of near or around the bases of such trees, except for mulched vegetative matter used to prevent soil compaction.
  - x. Trees in poor physical condition should be removed.
3. Area and spacing requirements.
    - a. Single Family units.

Where Single Family Dwelling Units are to be situated on individual Lots, the following minimum area and spacing shall be met.

- i. Lot size: 15,000 square feet
  - ii. Lot Width at Building Line: 90 feet
  - iii. Side Yards: 35 feet aggregate, 15 feet minimum
  - iv. Building setback (Front Yard): 40 feet
  - v. Rear Yard: 50 feet.
- b. Two-Family (Twin or Duplex) Dwellings.
- i. Lot size: 10,000 square feet per Family.
  - ii. Lot Width at Building Line: 120 feet minimum aggregate.
  - iii. Side Yards: 15 feet minimum on each side of Structure.
  - iv. Building setback (from all Streets): 40 feet minimum from Street right-of-way.
  - v. Rear Yard: 50 feet minimum.
- c. Multi-Family (quadraplex and Townhouse).
- i. Width: Townhouse units shall not be less than 20 feet in width.
  - ii. Building setback (from all Streets): 20 feet minimum from Street right-of-way.
  - iii. Rear Yard: 40 feet minimum.
  - iv. Distances between Structures: no quadraplex or Townhouse Structure shall be situated less than 50 feet from any other residential Structure.

- v. Distances from solid waste collection stations, parking areas, and access roads thereto (except driveways): 20 feet minimum.
  - vi. Maximum number of units in one (1) Townhouse Structure: six (6).
  - vii. Maximum linear dimension of any Structure: 200 feet.
- d. Area and spacing – Multi-Family (Apartment Buildings).
- i. Building setback (from all Streets): 30 feet minimum from Street right-of-way.
  - ii. Distance between Structures: no Apartment Building shall be situated less than 50 feet from any other residential Structure.
  - iii. Distance from solid waste collection stations, parking areas, and access roads thereto (except driveways): 20 feet minimum.
  - iv. Maximum linear dimension of any Structure: 200 feet.
- e. All Structures shall be situated at least fifty (50) feet from property line perimeter of the tract to be developed.
4. Height regulations.
- No Structure shall exceed thirty-five (35) feet in height, as measured from the mean finished grade, nor contain more than three (3) stories.
5. Streets and Walkways.
- a. The Street and Walkway systems shall be designed so as to relate harmoniously with land uses and adjacent Streets, and to minimize through traffic in residential areas. All residential parking and recreational areas shall be connected by pedestrian Walkways. Walkways that connect residential areas and parking areas shall have a surface that will not permit erosion or muddy strips.
  - b. All Streets shall have a minimum right-of-way width of fifty (50) feet and a minimum cartway width of twenty (20) feet, with no

parking permitted, provided that the cartway width for collector Streets may, in the discretion of the Board of Supervisors, be required to be twenty-four (24) feet.

- c. All cul-de-sac roads shall have a paved turning circle with a minimum radius of forty (40) feet to the outside curb and fifty (50) feet to the edge of the right-of-way.
  - d. Separation of vehicular from pedestrian and bicycle traffic is encouraged. Where pedestrian Walkways are not within a Street right-of-way, a Walkway easement at least three (3) feet in width shall be designated. Where a Walkway crosses over open space land, however, the easement shall not be subtracted from the open space for purpose of calculating the area thereof.
  - e. All Street cartways and off-Street loading areas shall be surfaced with an asphaltic, Portland cement, or porous pavement.
6. Parking.
- a. There shall be two (2) off-Street parking spaces, measuring nine and one-half (9½) feet by nineteen (19) feet, for each Dwelling; aisles will be at least twenty (20) feet wide. Parking for campers, boats, and visitors should also be provided.
  - b. INTENTIONALLY OMITTED.
  - c. Parking areas shall be screened from adjacent Structures, roads, and properties by use of facilities such as hedges, dense plantings, changes in grade or walls. All parking areas shall be at least twenty (20) feet from all Structures, roads, and other parking areas.
  - d. Landscaping, in accordance with Subsection 1504(C)9 of this Ordinance, shall be provided for every five (5) parking spaces.
  - e. Each parking area shall contain a maximum of twenty (20) spaces.
  - f. All parking and off-Street loading areas shall be surfaced with an asphaltic, Portland cement, or porous pavement.

7. Lighting.

- a. Lighting facilities shall be designed and located so as not to shine directly into residential buildings, private Yards, or at pedestrian eye-level. Lighting facilities shall not exceed eighteen (18) feet in height.
- b. All off-Street parking, steps, ramps, Walkways of high pedestrian use, and directional Signs shall be adequately lighted.
- c. The Board of Supervisors may require lighting in other areas for reasons of public safety.
- d. Costs of maintenance and illumination of lighting facilities shall be borne by the Developer and/or property owners in the Planned Residential Development in a manner similar to that for costs of maintenance of Common Open Space.

8. Runoff and erosion control.

All provisions of the East Marlborough Township Subdivision and Land Development Ordinance pertaining to storm drainage and erosion control shall be applicable to Planned Residential Developments.

9. Landscaping and Buffers.

Landscaping and Buffer plantings shall be provided in compliance with Section 1812(C) and Section 1812(D), in addition to meeting the following requirements:

- a. Shade trees of varying species, as approved by the Supervisors, shall be planted along all Streets within the Street right-of-way. At least one (1) tree of a minimum two (2) inch caliper and with a head clearance of six (6) feet in height on each side of the Street shall be provided for each twenty-five (25) feet of Street length, or fraction thereof. Trees that will cause roads to buckle or pipes to burst cannot be used.
- b. Planting and protection of landscape material shall be in accordance with a plan and schedule subject to Township approval, and shall be completed within six (6) months of initial occupancy of each Phase of development. Maintenance specifications for all plant material shall be submitted with the Final Plan, and shall include specific designation as to who will be

responsible for what Costs of required landscaping shall be included within the Improvement Guarantee required by §1507(A).

10. Signs

The character, size, and shape of all outdoor Signs shall be in conformity with the provisions of Article XVII of this Ordinance. Signs should also conform with the architectural character of the development.

11. Supplemental non-residential facilities.

Supplemental facilities to serve the residents of the Planned Residential Development and for recreational purposes may be provided within a Planned Residential Development, based upon the following requirements.

- a. Recreational facilities may be located within required open space areas. Ownership and maintenance thereof shall be in accordance with Subsections 1505(D)1, 2, and 4 of this Ordinance.
- b. All recreational facilities shall comply with the following standards.
  - i. Architectural compatibility with residential Structures to be erected within the Planned Residential Development.
  - ii. Prohibition of free-standing or lighted Signs. All such Signs shall be attached to an exterior wall (not the roof) of the Structure, and may be mounted either flush thereto or at right angles thereto. Total Sign area, including both sides of a Sign mounted at right angles to the wall, shall not exceed sixteen (16) square feet.

12. Utilities.

All utilities shall be placed underground.

D. Standards for location and management of open space.

1. Ownership.

Any of the following methods may be used either individually or together to preserve, own, and maintain open space: condominium,

homeowners' association, dedication in fee simple, dedication of development rights or easements, and transfer of fee simple title or development rights and easements to a private conservation organization. Such land shall not be eligible for transfer to another party except for transfer to another method of ownership permitted under this Section, and then only where there is no change in the open space ratio. The following specific requirements are associated with each of the various methods.

- a. Condominium. The open space may be controlled through the use of condominium agreements. Such agreement shall be in conformance with the Pennsylvania Uniform Condominium Act. All open space shall be held as "common element".
- b. Homeowners' Association. The open space may be held in common ownership by a homeowners' association. This method shall be subject to all of the provisions for homeowners' associations set forth in Article VII, Section 705(f) of Act 247, the Pennsylvania Municipalities Planning Code. The Homeowners' Association Agreement shall be recorded.
- c. Fee Simple Dedication. The Township may, but shall not be required to, accept any portion or portions of the open space, provided:
  - i. Such land is accessible to the residents of the Township.
  - ii. There is no cost of acquisition, other than any costs incident to the transfer of ownership such as title insurance; and
  - iii. The Township agrees to and has access to maintain such lands.
- d. Dedication of Development Rights or Easements. The Township may, but shall not be required to, accept easements for public use of any portion or portions of open space land, title of which is to remain in ownership by condominium or homeowners' association, provided:
  - i. Such land is accessible to the residents of the Township.

- ii. There is no cost of acquisition, other than any costs incident to the transfer of ownership, such as title insurance; and
    - iii. A satisfactory maintenance agreement is reached between the Developer and the Township.
  - e. Transfer to a Private Conservation Organization. With permission of the Township, an owner may transfer either the fee simple title, with appropriate deed restrictions running in favor of the Township, or restrictive easements to a private, non-profit organization, among whose purposes is to conserve open space land or natural resources, provided that:
    - i. The organization is acceptable to the Township, and is a bona fide conservation organization with perpetual existence;
    - ii. The conveyance contains appropriate provision for proper reverter or re-transfer in event that the organization becomes unwilling or unable to continue carrying out its functions; and
    - iii. A maintenance agreement acceptable to the Township is entered into by the Developer and the organization.
2. Specific requirements for Homeowners' Associations.

If a homeowners association is formed, it shall be governed according to the following regulations:

- a. The Developers shall provide to the Township a description of the organization, including its by-laws and methods for maintaining the open space.
- b. The organization shall be established by the Developers and shall be operating (with financial subsidization by the Developers, if necessary) before the sale of any Lots within the development.
- c. Membership in the organization is mandatory for all purchasers of homes therein and their successors.
- d. The organization shall be responsible for maintenance of and insurance and taxes on Common Open Space.

- e. The members of the organization shall share equitably the costs of maintaining and developing Common Open Space, in accordance with the procedures established by them.
- f. In the event of any proposed transfer of Common Open Space land by the homeowners association within the methods here permitted, or if the assumption of maintenance of Common Open Space land by the Township as hereinafter provided, notice of such action shall be given to all property owners within the Planned Residential Development.
- g. The organization shall have or hire adequate staff to administer common facilities and maintain Common Open Space.
- h. The property owner's organization may lease-back open space lands to the Developer, for heirs or assigns, or to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide: (i) that the residents of the Planned Residential Development shall at all times have access to the open space lands contained therein; (ii) that the Common Open Space to be leased shall be maintained for the purposes set forth in this Ordinance; and (iii) that the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Township.

The lease shall be subject to the approval of the Township and any transfer or assignment of the lease shall be further subject to the approval of the Board of Supervisors. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.

### 3. Location, Design and Layout

- a. The Open space shall be laid out in accordance with the best principles of site design, shall be consistent with Township's open space plan and shall be located and designed as areas easily accessible to residents and preserving natural features.
- b. Common Open Space areas should include both Active Recreation Areas for all age groups and, particularly where the area includes

a water course of hilly or wooded areas, land which is left as a natural area.

At least ten percent (10%) of the open space areas shall be appropriate for active recreational use, and, subject to the provisions of §1504(B)2, at least sixty (60) percent shall be located outside of Flood plain areas and areas of greater than twenty (20) percent Slope. In addition, no less than fifty (50) percent of the open space area shall remain as natural area or agricultural uses.

- c. Where the development utilizes a spray irrigation or other land disposal sewage treatment system, natural areas may be used for spraying or other land application of treated effluent. Storm drainage facilities may be located within Common Open Space.
- d. The tentative and final plans shall designate the use of open space, the type of maintenance to be provided, and a planting plan schedule. In determining designating use and maintenance the following may be used:
  - i. Lawn. A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to insure a neat and tidy appearance.
  - ii. Natural Area. An area of natural vegetation undisturbed during construction, or replanted; such areas may contain pathways. Meadows shall be maintained as such and not left to become weed-infested. Maintenance may be minimal but shall prevent the proliferation of weeds and undesirable plants. Litter shall be removed and streams shall be kept in free-flowing condition.
  - iii. Recreation Area. An area designated for a specific recreational use, including, but not limited to, tennis, swimming, shuffle board, playfields and tot Lots. Such areas shall be located and maintained in such manner as not to create a hazard or nuisance and shall perpetuate the proposed use.
  - iv. Designated planting and recreation facilities within the open space areas shall be provided by the Developer. A performance bond or other securities may be required to

cover costs of installation in accordance with this Ordinance.

4. Maintenance

- a. In the event that the organization established to own and maintain a Common Open Space, or any successor organization, shall at any time after establishment of the planned residential development fail to maintain the Common Open Space in reasonable order and condition in accordance with the development plan, the Township may serve written notice upon such organization or upon the residents and owners of the planned residential development, setting forth the manner in which the organization has failed to maintain the Common Open Space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said thirty (30) days or any extension thereof, the Township, in order to preserve the taxable values of the properties within the planned residential development and to prevent the Common Open Space from becoming a public nuisance, may enter upon said Common Open Space and maintain the same for a period of one year. Said entry and maintenance shall not constitute a taking of said Common Open Space, and shall not vest in the public any rights to use the Common Open Space except when the same is voluntarily dedicated to the public by the residents and owners and such dedication is acceptable to the Township. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the Common Open Space, call a Public Hearing upon notice to such organization, or to the residents and owners of the planned residential development, to be held by the Township, at which hearing such organization or the residents and owners of the planned residential development shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that such an organization is ready and able to maintain said Common Open Space in reasonable condition, the

Township shall cease to maintain said Common Open Space at the end of said year. If the Township shall determine such organization is not ready and able to maintain said Common Open Space in a reasonable condition, the Township may, in its discretion, continue to maintain said Common Open Space during the next succeeding year and subject to a similar hearing and determination in each year hereafter. The decision of the Township in any cause shall constitute a final administrative decision subject to judicial review.

- b. The cost of such maintenance and enforcement proceedings by the Township shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the Common Open Space and shall become a lien on said properties. Said assessments or charges shall be subordinate in lien to the line of any prior mortgage or mortgages on the property which is subject to such assessments or charges. The Township, at the time of entering upon such said Common Open Space for the purpose of maintenance, shall file a notice of such lien, in the office of the Prothonotary of the County, upon the properties affected by such lien within the planned residential development.

E. Sanitary Sewage Disposal

1. All planned residential developments shall be serviced by a Central Sewage Collector and Treatment System providing for publicly owned facilities, if available, or privately owned community facilities, and meeting the following requirements:
  - a. it shall be in accord with the applicable Sewage Facilities Plan, or a duly enacted Revision or Supplement thereto, as set forth in the Rules and Regulations of the Department of Environmental Protection (DEP Regulations Title 25, Chapter 71).
  - b. all requirements of DEP shall be complied with, and a permit for the system issued thereby.
2. Spray irrigation land disposal techniques are encouraged and must comply with all requirements therefor promulgated by DEP in its Spray Irrigation Manual, Bureau of Water Quality Management Publication No. 31, 1971 ed. as amended.

3. Ownership and maintenance of all privately owned sewage disposal facilities shall be in accordance with ownership and maintenance provisions for Common Open Space as set forth in §1504(D)1, §1504(D)2, and §1504(D)4 of this Ordinance.
4. All sewage collection and treatment facilities except pumping stations and underground pipes shall be set back a minimum of 150 feet from the property line of the tract to be developed, shall be Buffered with a planting screen from neighboring properties, whether or not developed, and shall be designed and maintained in a manner where there is no persistent order therefrom.
5. The Board of Supervisors may modify the requirements pertaining to central sanitary sewage disposal in the event that the Applicant successfully demonstrates that such system would not be feasible, that service by individual on-site septic tank and tile field systems would not constitute a potential hazard to public health and safety and obtains Chester County Health Department approval for such on-site treatment systems.

F. Water Supply

The development shall be served by public water. A distribution system shall be designed to furnish an adequate supply of water to each Dwelling Unit, with adequate main sizes and fire hydrant locations to meet with the specifications of the Middle States Department Association of Fire Underwriters.

G. Development in Phases

A Developer may construct a planned residential development in Phases if the following criteria are met:

1. The application for tentative approval covers the entire planned residential development and shows the location and approximate time of construction for each Phase, in addition to other information required by this ordinance. Sketches of later Phases may be acceptable only if they are given tentative approval pending compliance with the Land Development and Subdivision Ordinances.
2. At least fifteen (15) percent of the Dwelling Units in the plan given tentative approval are included in the first Phase.
3. All Phases shall be completed consistent with the approved plan and are of such size and location that they constitute economically sound units of

development. In no event shall such Phases contain less than fifteen (15) percent of the Dwelling Units receiving tentative approval. Each parcel shall be designed to be self-sufficient with respect to stormwater management, erosion and sedimentation controls, sanitary sewerage and water supply.

4. Proposed Phase lines shall comply with the twenty-five (25) acre maximum parcel size allowed under PA DEP Chapter 102, unless an Earth Disturbance Permit is received by PA DEP.
  5. The initial Phase of any roadway intended to be dedicated to the Township shall be of sufficient length to be eligible for liquid fuels tax reimbursement.
  6. In no case shall work on the current Phase include stripping or disturbance of woodland and soils set aside for later Phases.
  7. All improvements within a particular Phase shall be completed contemporaneously with the completion of the construction of Dwellings in that Phase.
  8. Escrow funds shall be prepared separately for each Phase and are to include the monies to tie-in subsequent roadways and utility lines to previously constructed Phases.
  9. All roadways intended to be extended in a subsequent Phase will be terminated in a cul-de-sac bulb and are to be located at the edge of the Phase line. A minimum of a fifty (50) foot right-of-way is to be provided into the next Phase.
  10. Residential density may be varied from Phase to Phase provided, however, that final approval shall not be given to any Phase if the density by type of dwelling of the area which includes Phases already finally approved and the Phase for which final approval is being sought exceeds by more than ten (10) percent the density for each type of Dwelling Unit allowed for the entire planned residential development in the tentatively approved plan. Where it is necessary to allocate open space to early Phases to avoid exceeding maximum densities, the Developer may be required to grant an open space easement or covenant to the Township specifying the amount and, if necessary, the location of open space.
- Enforcement of Plan Provisions

In accordance with Section 706 of the Pennsylvania Municipalities Planning Code, any modifications to the provisions of the development plan relating to the use, bulk and location of buildings and Structures; the quantity and location of Common Open Space; and the intensity of use or the density of residential units, shall run in favor of the Township and shall be enforceable in law or in equity by the Township, without limitation on any powers of regulation otherwise granted the Township by law. The development plan shall specify those of its provisions which shall run in favor of, and be enforceable by, residents of the planned residential development and, in addition, the manner in which such residents may modify or release such rights.

## **SECTION 1505. CONTENT OF APPLICATION**

- A. Application for Tentative Approval
1. The application for tentative approval shall include documentation illustrating compliance with all of the standards for planned residential development set forth in §1504 of this Ordinance.
  2. The application for tentative approval shall include, but not necessarily be limited to, the following documents:
    - a. A key map, including a north arrow, drawn to scale of 1" = 800' showing the location and size of the property and showing the relation of the property to adjoining areas and Streets, and showing the nature of the Landowner's interest in the land proposed to be developed.
    - b. Plans, including a north arrow, at a scale of 1" = 50' of existing natural and man-made features of the land, including topography, vegetation, drainage and soils. The following information shall be included on such plan:
      - i. contour lines at vertical intervals of not more than five (5) feet and showing the location and elevation of the closest established benchmark(s) from which the contour elevations are derived;
      - ii. total tract boundaries of the property being developed showing bearings and distances and a statement of the total acreage of the property;

- iii. locations of all existing stands of trees and all other trees in excess of six (6) inches in diameter, rock outcroppings, watercourses, Flood plain areas and other Significant natural features;
  - iv. Slope differentials delineating all Slopes less than eight (8) percent, from eight (8) percent to fifteen (15) percent, from fifteen (15) percent to twenty-five (25) percent, and in excess of twenty-five (25) percent;
  - v. delineation of existing drainage patterns on the property;
  - vi. existing soil classifications; and
  - vii. any existing sewer lines, water lines, electric and telephone utility lines, pipelines, culverts, bridges, railroads, roads and other Significant man-made features within the tract or within one hundred fifty (150) feet thereof.
- c. A site plan at a scale of 1" = 50' showing proposed use areas, Common Open Space, and location of buildings and improvements to be installed. The following shall be shown on the site plan:
- i. the total number of residential units proposed, with sub-totals for each residential housing type;
  - ii. the total acreage of the tract;
  - iii. the average gross residential density;
  - iv. the approximate location of all buildings, roads, parking areas, sidewalks or pathways, description of the use of all Structures, dimensions (including height) of all buildings and other Structures, road right-of-way and cartway widths, and proposed Structures and facilities for control of storm water runoff and for sanitary sewage disposal;
  - v. the location, function, size, ownership, and manner of maintenance of Common Open Space areas, indicating the nature of the facilities or Structures therein and proposed uses thereof;

- vi. connections to public utilities and Streets accompanied by documentation as to the impact of the proposed development on such utilities and Streets;
  - vii. Lot lines with approximate dimensions for all residential units for which individual ownership is proposed; and
  - viii. proposed utility easement location.
- d. A plan at a scale of 1" = 100' showing proposed surface drainage of the tract and proposed erosion and sedimentation plan as required by the Pennsylvania Department of Environmental Protection and by §1504(C)8 of this Ordinance, and showing proposed sanitary sewage treatment system as required by §1504(E). The plan shall be accompanied by a narrative documenting the feasibility of the proposals for control of storm water, erosion and sedimentation control, and for the sanitary sewage treatment system.
  - e. The substance of covenants, grants of easements, or other restrictions to be imposed upon the use of land, buildings, and Structures, including proposed grants and easements for public utilities.
  - f. A site plan and narrative illustrating phasing, including a time schedule for all on-site and off-site improvements which shall be made, and proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed. The schedule must be updated annually on the anniversary of its approval until the development is completed and accepted.
  - g. A written statement by the Landowner setting forth reason why, in his opinion, the planned residential development would be in the public interest and would be consistent with Township's Comprehensive Plan.
  - h. A vegetation and landscaping plan containing the information required in §1504(A)5 and demonstrating compliance with §1504(C)2 and §1504(C)9, showing inter alia, existing vegetation and the quality thereof, limits of construction and earth-moving activities, and landscaping features to be added as part of the development.



- iii. Lot lines with exact dimensions for all residential units for which individual ownership is proposed, together with proposed building setback lines for each Lot and the proposed placement of each building;
  - iv. clear sight triangles for all Street intersections;
  - v. accurate dimensions of Common Open Space areas and, where Structures are to be situated therein, the exact location and dimensions of all such Structures; and
  - vi. proposed names of all Streets.
- d. A plan at a scale of 1" = 100' showing all information pertaining to surface drainage, proposed erosion and sedimentation control, and proposed sanitary sewage treatment system as required by §1504(A)2d of this Ordinance. In addition to such information, the plan shall also show water supply and distribution plans, including the location of all water lines and fire hydrants.
- e. Profile sheets for all proposed Streets, whether to be dedicated or to be privately owned, within the tract, showing at least the following information:
- i. existing natural profiles along the centerline of each proposed Street and, if Slope within the cartway area exceeds five (5) percent, along both cartway edges;
  - ii. proposed finish grade of the centerline and, in any case where the road shall not conform to typical cross-section, proposed finish grade at the top of both curbs or pavement edges;
  - iii. the length and function of all vertical curves;
  - iv. location and profile of all existing and proposed sanitary sewer mains and manholes, storm sewer mains, inlets, manholes and culverts and water mains and fire hydrants; and

- v. typical cross-sections of all roads, culverts, manholes and other improvements.
- f. Approvals by the Pennsylvania Department of Environmental Protection for water supply and sanitary sewage disposal systems.
- g. Architectural drawings illustrating exterior and interior designs of typical residential buildings of each type and of each non-residential Structure to be constructed.
- h. Final drafts of all offers of dedication, covenants, easements, deed restrictions and maintenance agreements to be imposed upon the use of land, buildings and structures, and pertaining to the ownership, use and maintenance of all Common Open Space areas and any other common facilities, as set forth in §1504(C) of this Ordinance an including proposed grades and easements for such utilities.
- i. Landscaping plan and schedule, prepared by a registered landscape architect as required by §1504(C)9d(ii).
- j. Arrangements for and documents governing improvement and performance guarantees as required by §1507(A) and §1507(B).

## **SECTION 1506. SUBMISSION AND REVIEW PROCEDURES**

### **A. Pre-application Procedures**

- 1. A Landowner proposing to develop a planned residential development must submit a sketch plan to the Planning Commission for informal discussion prior to the drafting of the tentative plan. Nine (9) copies thereof should be submitted.

### **B. Application for Tentative Approval**

- 1. The application for tentative approval shall be executed by, or on behalf of, the Landowner and filed with the Township Secretary. An initial deposit in the amount specified in the applicable fee schedule shall be paid upon filing of the application. Additional deposits shall be made from time to time as requested by the Township to apply against the expenses of processing the application, not to exceed actual expenses incurred by the Township.

2. The Developer shall submit seventeen (17) copies of all required plans and information; the Township Secretary shall thereafter distribute copies of the plans to all appropriate agencies, including, but not limited to, the Township Planning Commission, the Board of Supervisors, the County Planning Commission, the County Health Department, the Township Engineer, the Soil Conservation Service and the Pennsylvania Department of Environmental Protection.
3. All pertinent reviews, including those of the Township and County Planning Commission and the Township Engineer, shall be effected within forty-five (45) days of referral or at least five (5) days prior to the Public Hearing to be held by the Board of Supervisors on the Tentative application, whichever shall first occur. The Township Planning Commission shall forward to the governing body copies of reports received from the Township Engineer and all other reviewing agencies, together with its own recommendations, within the aforesaid time limitations. Copies of such reports and recommendations shall also be furnished to the Landowner within the aforesaid time limitations.

C. Public Hearings

1. Within sixty (6) days after the filing of an application for tentative approval of a planned residential development pursuant to this ordinance, a Public Hearing pursuant to public notice on said application shall be held by the Board of Supervisors in the manner prescribed in the East Marlborough Township Zoning Ordinance for the enactment of an amendment. The chairman, or in his absence, the acting chairman, of the Board of Supervisors or its designated agency may administer oaths and compel the attendance of witnesses. All agency testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
2. A verbatim record of the hearing shall be caused to be made by the Board of Supervisors whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the party making the request and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.

3. The Board of Supervisors may continue the Public Hearings provided, however, that the ensuing hearings shall be concluded within sixty (60) days from the date of the first Public Hearing.

D. Findings

1. The Board of Supervisors, within sixty (60) days following the conclusion of the Public Hearing provided for in this Article, or within 180 days after the date of filing of the application, whichever first occurs, shall, by official written communication to the Landowner, either:
  - a. Grant tentative approval of the development plan as submitted;
  - b. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
  - c. Deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the Landowner may, within thirty (30) days after receiving a copy of the official written communication of the Board of Supervisors, notify such Board of Supervisors of his refusal to accept all said conditions, in which case, the Board of Supervisors shall be deemed to have denied tentative approval of the development plan. In the event the Landowner does not, within said period, notify the Board of Supervisors of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

2. The grant or denial or tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:
  - a. Those respects in which the development plan is or is not consistent with the Comprehensive Plan for the development of the municipality;
  - b. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject

property, including but not limited to density, bulk and use, and the reasons, if any, which such departures are not deemed to be in the public interest.

- c. The purpose, location and amount of the Common Open Space in the planned residential development, the reliability of the proposals for maintenance and conservation of the Common Open Space, and the adequacy or inadequacy of the amount and purpose of the Common Open Space as related to the proposed density and type of residential development;
  - d. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further, the amenities of light and air, recreation and visual enjoyment.
  - e. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and
  - f. In the case of a development plan which proposed development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.
3. In the event a development plan is granted tentative approval, with or without conditions, the Board of Supervisors may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the Landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months and, in case of development over a period of years, the time between applications for final approval of each part of a plan shall not be less than twelve (12) months.

E. Status of Plan after Tentative Approval

1. The official written communication provided for in §1506(D) of this Ordinance shall be certified by the Secretary of the Board of Supervisors

and shall be filed in his/her office, and a certified copy shall be mailed to the Landowner. Where tentative approval has been granted, the same shall be noted on the Zoning Map.

2. Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the Landowner (and provided that the Landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Township pending an application or applications for final approval, without the consent of the Landowner, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.
3. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the Landowner shall elect to abandon said development plan, and shall so notify the Board of Supervisors in writing, or in the event the Landowner shall fail to file application or applications as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Secretary or Clerk of the Township.

F. Application for Final Approval

1. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, a section thereof. Said application shall be made to the official review agency and within the time or times specified by the official written communication granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan, a Public Hearing need not be held.
2. In the event the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Township shall, within thirty (30) days of such filing, grant such development plan final approval.

3. In the event the development plan as submitted contains variations from the development plan given tentative approval, the Board of Supervisors may refuse to grant final approval and shall, within thirty (30) days from the filing of the application for final approval, so advise the Landowner in writing of said refusal, setting forth in said notice the reasons why one or more of the said variations are not in the public interest. In the event of such refusal, the Landowner may either:

a. Refile his application for final approval without the variations objected to;

-or-

b. File a written request with the Board of Supervisors that it hold a Public Hearing on his application for final approval. If the Landowner wishes to take either such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the Landowner was advised that the development plan was not in substantial compliance. IN the event the Landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such Public Hearing shall be held pursuant to public notice within thirty (30) days after request for the hearing is made by the Landowner, and the hearing shall be conducted in the manner prescribed in this Ordinance for Public Hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the hearing, the Board of Supervisors shall, by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this Ordinance.

4. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Board of Supervisors and shall be filed of record forthwith in the Office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon filing of record of the development plan, the Zoning and Subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. However, any East Marlborough Township Ordinances containing provisions concerning sedimentation and erosion control which are more stringent than those in this Ordinance shall be applicable.
5. In the event that a development plan, or a section thereof, is given final approval and thereafter the Landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Board of Supervisors in writing, or, in the event the Landowner shall fail to commence and carry out the planned residential development within such reasonable period of time as may be fixed by Ordinance after final approval has been granted, no development or further development shall take place on the property included in the development plan until after said property is re-subdivided and is reclassified by enactment of an amendment to the East Marlborough Township Zoning Ordinance of 2015, as amended.

## **SECTION 1507. ADMINISTRATION**

### **A. Improvement Guarantee**

1. Prior to release of the approved final plan for recording, the Developer shall guarantee the installation of all required improvements by posting an improvement guarantee in the amount of one hundred twenty-five (125) percent of the cost of all improvements as estimated by the Township Engineer for that portion of the development for which final plan approval has been granted.
2. The improvement guarantee may be a bond with a corporate surety, an escrow deposit, or some other security acceptable to the Township. The improvement guarantee shall be submitted in a form and with a surety approved by the Township Solicitor guaranteeing the construction and installation of all improvements within a stated period not in excess of three (3) years from the time of final approval.

3. The amount of improvement guarantee may be reduced as and when portions of the required improvements have been installed, and shall be released upon satisfactory completion of all improvements.

B. Dedication and Maintenance Guarantee

1. All Streets, recreational facilities, surface drainage, water and sewer facilities, and other improvements shown on the final plan shall be privately owned until such time as they have been offered for dedication to the Township and accepted by resolution of the Township Supervisors.
2. Before accepting any such offer of dedication, the Township Supervisors shall require the Developer to file a maintenance guarantee in an amount not less than ten (10) percent of the Township Engineer's estimate of the cost of such improvements to be dedicated but in any case not less than five thousand dollars (\$5,000.00). Such maintenance guarantee shall be in a form and with a surety approved by the Township Solicitor, guaranteeing that the Developer shall maintain all such improvements in good condition for a period of two (2) years after completion of construction or installation of all such improvements.
3. At the end of the said two (2) year period, if the improvements shall be in good condition, the Township shall release the maintenance bond. Prior to such release, the Township may require any needed items of maintenance to be performed.

C. Permits

1. Issuance of permits, and all matters pertaining to administration of the plan as finally approved, shall be the responsibility of the Township Zoning Officer.
2. Upon application of the Landowner showing compliance with the requirements of final approval, the Zoning Officer shall issue permits for construction pursuant to the plan, or any section thereof.
3. The provisions of Article XX of this Ordinance, "Administration," shall be fully applicable to the plan as finally approved insofar as the provisions thereof are consistent with the provisions of this Article and the conditions of final approval. The Zoning Officer shall review the progress and status of Construction of the plan and render monthly reports thereon to the Board of Supervisors in order to assure compliance with the provisions of this Article and the conditions of final approval.

D. Fees

The Township Supervisors shall establish by resolution a schedule of fees to be paid by the Developer at the time of filing the tentative and final applications, which schedule shall be available upon request.

E. Abandonment after Final Approval

If, after development in accordance with a final plan is started, the Landowner shall abandon such plan or the section thereof and shall so notify the Township in writing, the Board of Supervisors may require that the property be re-subdivided and reclassified as provided in §1506(E)3, or, if any portion of a planned residential development is substantially completed in accordance with final plans submitted and approved by the Board of Supervisors, the Board of Supervisors shall have the option of recording the master plan and requiring subsequent construction to be within the framework of the plan unless substantial economic hardship can be demonstrated.

## **ARTICLE XV - A**

### **RETIREMENT COMMUNITY DEVELOPMENT OVERLAY DISTRICT (RET)**

#### **SECTION 1551. PURPOSES**

The purposes of this Article are:

- A. To insure that the provisions of the East Marlborough Township Zoning Ordinance which are concerned with provision of a full range of housing options, are met.
- B. To provide greater opportunities for housing and recreation for elderly residents of the Township.

#### **SECTION 1552. ELIGIBILITY**

No application for approval of a Retirement Community Development shall be considered or approved unless the following conditions are met:

- A. The Retirement Community Development consists of a contiguous area of at least seventy-five (75) acres.
- B. The development will be served by central or public water and sewage disposal systems.
- C. The proposed development is found to be generally consistent with the Comprehensive Plan of East Marlborough Township.
- D. The Retirement Community shall be entirely within the area designated as Retirement Community Development Overlay on the Zoning Map of East Marlborough Township.
- E. The tract of land to be developed shall be in one (1) ownership or, if in multiple ownership, shall be developed according to a single plan with common authority and responsibility.

**SECTION 1553. PERMITTED USES**

A Retirement Community Development shall provide a combination of individual Dwelling Units in any combination of single or Multi-Family units in any combination of single or Multi-Family buildings and may include a community center consisting of one (1) or more buildings in which the following uses may be permitted:

- A. Medical treatment, nursing and convalescent facilities;
- B. Dining facilities;
- C. Auditoriums, activity rooms, craft rooms, libraries, lounges, and similar recreational facilities for members of the community;
- D. Office and retail service facilities designed and adequate to serve only the members of the community, such as, but not necessarily limited to doctors' office, pharmacy, gift shop, coffee shop, post office, beauty shop and barber shop.

**SECTION 1554. DEVELOPMENT STANDARDS**

- A. The intensity of use shall not exceed two (2) Dwelling Units and equivalent Dwelling Units per adjusted gross acre, as defined in Section 202. For purposes of this section, four (4) beds for patient, resident, or staff person use provided within the community center of Accessory Buildings shall be deemed the equivalent of one (1) Dwelling Unit.
- B. Not less than forty-five (45) percent of the total area in the tract shall be designated as and used exclusively for Common Open Space. Ownership, location, design, layout and maintenance of the Common Open Space shall be in accord with the requirements of Section 1505(D).
- C. There shall be a setback of one hundred (100) feet around the entire perimeter of the tract in which no Structures shall be situated.
- D. Two (2) points of access may be required for a Retirement Community, depending on the number of vehicle trips per day and road capacity. Where a tract has frontage on more than one (1) road, at least one (1) access may be required from each road.

- E. Site planning requirements for sanitary sewage disposal, water supply, runoff and erosion control, conservation of trees and natural features, and landscaping and Buffers shall comply with the standards set forth in this Ordinance by Sections 1505(E), 1505(C)8, 1505(C)2, and 1505(C)9, respectively.

## **ARTICLE XVI**

### **LOT AVERAGING AND CLUSTER DEVELOPMENT**

#### **SECTION 1601. PURPOSES**

- A. In addition to the general goals listed in the statement of Purposes and Community Development objectives, it is the purpose of this section to foster the protection of critical natural resources, such as streams, Flood plains, wet soils, steep Slopes, woodlands, and wildlife habitat areas, and to conserve open space areas within residential subdivisions, as well as, where subdivisions shall be of sufficient size, to provide commonly owned open space areas for passive and/or active recreational use by residents of such subdivisions.
- B. By providing for Lot Averaging in relatively small subdivisions and Cluster Development in relatively large subdivisions, paved areas may also be reduced, resulting in a lesser increase in storm water runoff as well as a reduction in subdivision improvement costs.
- C. By providing for Lot Averaging and Cluster Development it is the specific goal of the Township to minimize the potential adverse aesthetic effects of land development on the Township as a whole and on neighboring property owners in particular, by encouraging the use of site planning which will limit the visual impact of development from the vantage point of surrounding properties and nearby public roads, and minimize adverse impact on adjacent subdivisions and properties devoted to agricultural uses.

#### **SECTION 1602. ELIGIBILITY**

As a use in the R-B, RM, C-1, WMU and MU Zoning Districts, a Developer may be allowed to modify the Area and Bulk Regulations, provided that the following procedures and conditions are met:

- A. Where the Lot Area of the tract to be subdivided is at least two (2) times the applicable area of a Single Family Lot permitted in the applicable District but less than fifteen (15) acres, the tract shall be eligible for development utilizing Lot Averaging provisions of this Ordinance only, with no Common Open Space. Where the Lot Area of the tract to be subdivided is at least fifteen (15) acres but less than thirty (30) acres, the tract shall be eligible for development utilizing either Lot Averaging provisions, with no Common Open Space, or Cluster Development, with Common Open Space. Where the Lot Area of the tract to be subdivided is thirty (30) acres or greater, the tract shall be eligible for development utilizing Cluster Development provisions of this Ordinance only, with Common Open Space. **[Amended by Ord. No. 2015-04]**
- B. The total number of Lots in a Lot Averaging or Option A Cluster subdivision shall be determined in accordance with the following formula:
1. Calculate the Adjusted Lot Area of the tract.
  2. Subtract all tract areas to be devoted to proposed Street rights-of-way, in order to calculate the “Base Acreage” of the tract.
  3. Multiply the Base Acreage as follows:
    - a. For a development utilizing on-site water and sewer facilities, the maximum number of Lots shall be determined by multiplying the Base Acreage of the tract by 0.55.
    - b. For a development utilizing either central water or central sewer facilities, the maximum number of Lots shall be determined by multiplying the Base Acreage of the tract by 0.575.
    - c. For a development utilizing both central water and central sewer facilities, the maximum number of Lots shall be determined by multiplying the Base Acreage by 0.6.
- C. The total number of Lots in an Option B Cluster Subdivision shall be determined in accordance with the following formula:
1. Multiply the Base Acreage by 0.6, to determine the “Base Number of Lots.”
  2. Calculate the total proposed Common Open Space area per Base Number of Lots.

3. Determine the Enhanced Common Open Space Ratio by dividing the proposed Common Open Space per Lot by 45,000 square feet.
  4. Multiply the Base Number of Lots by the Enhanced Common Open Space Ratio, which shall constitute the maximum number of Lots permitted under an Option B Cluster Subdivision.
- D. The site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the site, due to flooding, erosion, subsidence or slipping of the soil, or other dangers or inconvenience. Conditions of soil, groundwater level, drainage, and topography shall be compatible with proposed site design.
- E. Site planning, including layout of Streets and Lots and, in Cluster Developments, the layout of Common Open Space areas, shall be, in the judgment of the Board of Supervisors, in compliance with the purposes and standards of this Article.
- F. The following specific design standards shall be applicable:
1. Parking. As required by §1812(A)2 of this Ordinance.
  2. Access and Highway Frontage. As required by §1812(B)1 of this Ordinance.
  3. Landscaping. As required by §1812(C)1 of this Ordinance. (Applicable to Cluster Development but not to Lot Averaging.)

**APPENDIX TO SECTION 1602**

The following Appendix is intended to clarify the methods and calculations to be applied in the context of Cluster Option A and Cluster Option B, where public or central water and sewer are both available to service a cluster subdivision.

Option A provides a fixed density formula, so long as the minimum common open space requirement (45,000 sq. ft. per lot) is met.

The key variable for Option B is to calculate the additional open space per lot (over and above the 45,000 sq. ft. per lot required under Option A) and then to calculate the ratio of proposed C.O.S. per lot to 45,000 sq. ft. per lot (as required under Option A). That ratio is then applied to the maximum number of lots allowed under Option A to determine the maximum number of lots allowed under option B.

Set forth below are examples, based upon hypothetical 60 acre tract with cross references for each step in the calculations to the relevant subsections of 1602(B) and 1602(C):

Assume 60 acre tract (w & s available), with restricted area (“Adjustments”) of 8 acres. [See definition of “Acreage, Adjusted”]

Option A (example)

Gross Acreage	60 acres
Less: Adjustments	8 acres

B.1	“Adjusted Tract Area”:	52 acres
	Less: Street right-of-ways	6 acres

B.2	Base Acreage:	46 acres
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B.3, c	Base Number of Lots: $46 \times .6 =$	<u>27 lots</u>
	[Min. lot size: 20,000 sq. ft.]	
	Min. Common open space – $27 \times 45,000$ sq. ft. =	27.9 acres
	being: 46.5% of Gross Tract Area	

End Result – 60 acre tract – minimum 27.9 acres C.O.S.; minimum 12.4 acres in lots

## Option B (example 1)

- C.1 Base Number of Lots [from Option A calculations] 27 lots
- C.2 Proposed Common Open Space [at Developer's option, beyond the 45,000 sq. ft. per lot minimum] - say: 70% or 42 acres
- C.3 Enhanced C.O.S. ratio = 42 acres ÷ 27 lots = 67,760 sq. ft. per lot  
 $67,760 \div 45,000 = 1.506$  [Enhanced C.O.S. ratio]
- C.4 Multiply Enhanced C.O.S. ratio (1.5060) x 27 = 40 lots  
 Assume proposed average lot size of 8,000 sq. ft.  
 $40 \times 8,000 \text{ sq. ft.} = 320,000 \text{ sq. ft.}$  (7.35 acres of lots)

End result – 60 acre tract – minimum 42 acres in C.O.S.; minimum 7.35 acres in lots.

## Option B (example 2)

[Same tract, but assume 60% C.O.S.]

- C.1 Base Number of lots [from option A calculations] 27 lots
- C.2 Proposed C.O.S. – say 60% = 36 acres
- C.3 Enhanced C.O.S. ratio = 36 acres ÷ 27 lots = 58,080 sq. ft. per lot  
 $58,080 \text{ sq. ft. per lot} \div 45,000 = 1.29$  [Enhanced C.O.S. ratio]
- C.4 Multiply Enhanced C.O.S ratio (1.29) by 27 = 34 lots  
 Assume Average lot size if 12,000 sq. ft.  
 $34 \times 12,000 \text{ sq. ft.} = 408,000 \text{ sq. ft.} \div 43,500 = 9.4 \text{ acres in lots}$

End Result – 60 acre tract – minimum 36 acres in C.O.S.; minimum 9.4 acres in lots

**SECTION 1603. AREA AND BULK REGULATIONS**

A. For subdivisions utilizing Lot Averaging.

The following minimum area and bulk regulations shall be applicable to subdivisions utilizing the Lot Averaging provisions of this Article.

	On-Site water & <u>sewage</u>	Central water or <u>sewage</u>	Central water & <u>sewage</u>
Lot Area	50,000 sq. ft.	30,000 sq. ft.	20,000 sq. ft.
Lot Width	150 ft.	125 ft.	100 ft.
Lot Coverage	15% max.	20% max.	25% max
Front Yard	60 ft.	45 ft.	40 ft.
Side Yards (aggregate)	60 ft.	45 ft.	40 ft.
Side Yards (minimum)	25 ft.	20 ft.	20 ft.
Rear Yard	60 ft.*	50 ft.*	50 ft.*
Accessory Structures	15 ft.**	5 ft.**	5 ft.**

\*Unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1812(B)2 shall apply.

\*\*Minimum distance from a side or rear property line.

B. For subdivisions utilizing Option A Cluster Development.

This option provides for Lot placement recognizably different from Lot Averaging or other more standard land development. It is useful for land having Significant environmental restrictions. Wherever practicable, clusters will consist of small groups of houses, each group separated by Common Open Space. Area and bulk regulations applicable to such subdivisions using provisions of this Article are as follows:

	On-Site water & <u>sewage</u>	Central water or <u>sewage</u>	Central water & <u>sewage</u>
Lot Area	43,560 sq. ft.	30,000 sq. ft.	20,000 sq. ft.
Lot Width	150 ft.	125 ft.	100 ft.
Lot Coverage	15% max.	20% max.	25% max.
Front Yard	50 ft.	45 ft.	40 ft.
Side Yards (aggregate)	50 ft.	45 ft.	40 ft.
Side Yards (minimum)	20 ft.	20 ft.	20 ft.
Rear Yard	50 ft.*	50 ft.*	50 ft.*
Accessory Structures	5 ft.**	5 ft.**	5 ft.**

\*Unless the Lot is a Reverse Frontage Lot, in which event the requirements of §1812(B)2 shall apply.

\*\*Minimum distance from a side or rear property line.

C. For Subdivisions utilizing Option B Cluster Development:

Lot Area	7,000 sq. ft.
Lot Width (building line)	50 ft.
Lot Coverage	50% max.
Front Yard	10 ft.
Side Yards	10ft. each
Rear Yards	30 ft.
Accessory Structures	5 ft. **

\*\* Minimum distance from a side or rear property line

**SECTION 1604. LOT AVERAGING CONTROLS**

A. For purposes of determining the average Lot Area in a subdivision, any Lot in excess of four (4) adjusted acres shall be considered as a four-acre Lot.

- B. No Lot of such size as to be capable of further subdivision under the district regulations shall be included in determining the average Lot Area unless the possibility of such further subdivision is eliminated by a deed restriction or agreement in form acceptable to Township and duly recorded in the office of the Recorder of Deeds of Chester County.

**SECTION 1605. CLUSTER DEVELOPMENT CONTROLS**

For each designated building Lot in a Cluster Development, except for additional dwelling units permitted under the terms of Section 2409, the following minimum areas of Common Open Space shall be designated and provided:

On-site water <u>and sewage</u>	Central water <u>or sewage</u>	Central water <u>and sewage</u>
25,000 sq. ft.	35,000 sq. ft.	45,000 sq. ft.

**SECTION 1606. COMMON OPEN SPACE IN CLUSTER DEVELOPMENTS**

The Common Open Space within a Cluster Development shall be consistent with the following criteria:

- A. A site analysis should be provided as part of the subdivision application. This analysis will identify environmental constraints or natural features which should be preserved as open space. All other Common Open Space is, wherever practicable, to be integrated between clusters, or groups, of Dwelling Units, and should be reasonably accessible to all units within the development, said space being designed so as to be perceivable by residents as being Common Open Space. Although the width of the open space separating the clusters may be dictated by factors such a vegetation or topography, it should seldom be less than one hundred and twenty-five (125) feet unless a qualified engineering report shows this to be impracticable for a given tract.
- B. Common Open Space shall be defined as set forth in Section 202.
- C. The Common Open Space shall be contiguous to the development. If separated from the tract by existing roads, safe pedestrian access must be demonstrated.

- D. Consideration shall be given to the arrangement and location of Common Open Space to take advantage of physical characteristics of the site and to place Common Open Space within easy access and view of Dwelling Units, at the same time preserving and enhancing natural features. Areas set aside for Common Open Space shall contain no Structure other than a Structure related to outdoor recreational use.
- E. Common Open Space shall be made subject to such agreement with the Township and such deed restrictions duly recorded in the office of the Recorder of Deeds in Chester County as may be required by the Board of Supervisors for the purpose of preserving the Common Open Space for such use.
- F. The Supervisors may require a suitable portion of the open space area to be useable and physically prepared for active recreational use. See §627C of the East Marlborough Township Subdivision and Land Development Ordinance.
- G. Common Open Space areas will be suitably landscaped either by retaining existing natural cover and wooded areas and/or by a landscaping plan for enhancing open space areas through plantings which are consistent with the purposes of this Article and which are designed to minimize maintenance costs.
- H. Common open areas shall, where deemed appropriate by the Board of Supervisors, make provision for pedestrian pathways to be available for general public use, in order to provide the potential for interconnecting pathway systems within the Township.
- I. Ownership and maintenance of Common Open Space areas shall be in accordance with § 1504(D)1, 2, and 4 of this Ordinance.
- J. The location, design, and layout of Common Open Space shall also be in accordance with §1504(D)3 of this Ordinance.
- K. Conservation of trees and natural features shall be in accordance with §1504(C)2.

## **ARTICLE XVII SIGNS**

### **SECTION 1701. CONFORMANCE REQUIRED**

Any Sign hereafter erected or maintained shall conform with the provisions of this Article and any other ordinance or regulations of the Township of East Marlborough relating thereto. See §1904 for regulations affecting non-conforming Signs and §2004 for permit requirements.

### **SECTION 1702. DEFINITIONS**

- A. **ACCESSORY USE SIGNS**  
Signs which designate Home Occupations.
  
- B. **ARTISAN SIGN**  
Temporary advertising Signs of workmen performing services at or Alterations to a building or premises.
  
- BB. **BILLBOARD SIGN**  
A sign which directs attention to a person, business, profession, product, activity or event not conducted on the premises where the sign is located, such sign being a principal use of the Lot on which it is located.
  
- C. **BULLETIN BOARD**  
A non-commercial Sign of permanent character, used in conjunction with an institution or organization, with movable letters, words or numerals, indicating the names of persons associated with or events conducted upon the premises upon which such a Sign is maintained; provided that no part of the Sign, including the movable letters, words or numbers on the Sign, may be illuminated either internally or with backlighting that projects light through the sign, whether by means of LED, neon, luminous or similar types of bulbs or tubes or otherwise.
  
- D. **BUSINESS SIGN**  
A Sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the Sign is maintained.

- E. **CHANGEABLE SIGN COPY**  
A Sign that permits the message on the Sign to be altered periodically, either by manual change of lettering or by electronics, such as LED bulbs or neon tubing.
- F. **DEVELOPMENT SIGN**  
A Sign indicating that the premises is in the process of being subdivided and developed for the construction of Dwellings or other buildings.
- G. **DIRECTIONAL SIGN**  
A Sign conveying instructions with respect to the premises on which it is maintained, such as the entrance and exit of a parking area, a warning Sign, a danger Sign and similar Signs.
- H. **FREE-STANDING SIGN**  
A detached Sign which shall include any Sign supported by uprights or braces placed upon or in or supported by the ground and not attached to any building. Pole Signs and monument Signs are Free-Standing Signs.
- I. **IDENTIFICATION SIGN**  
A Sign, other than a bulletin board or nameplate Sign, indicating the name of a permitted use, the name or address of a building or the name of the management thereof.
- J. **ILLUMINATED SIGN**  
A non-flashing or non-Twinkling Sign which has characters, letters, figures, designs or outlines illuminated by direct or indirect electric lighting or luminous tubes as part of the Sign.
- K. **MONUMENT SIGN**  
A type of Free-standing Sign that is anchored by brick or similar materials in a structure, rather than by a pole or poles, and which has little or no space between the bottom of the Sign and the ground.
- L. **NAMEPLATE SIGN**  
A Sign which designates the name and address of an occupant or group of occupants.
- M. **OFFICIAL TRAFFIC SIGN**  
Signs erected by the Commonwealth of Pennsylvania Department of Transportation or the Township of East Marlborough which are designed to regulate traffic or to describe road conditions.

- N. **OFF-SITE DIRECTIONAL SIGNS**  
Non-illuminated Signs used to direct patrons, members or audiences to service clubs, Churches, Schools, non-profit organizations, or other public or quasi-public sites or facilities. Such Signs shall indicate only the name of the facility, organization or site, including location of meetings the direction in which it is located and approximate distance and shall not exceed two (2) square feet in area. No more than two (2) such Signs shall be permitted within the Township, unless otherwise approved by the Board of Supervisors.
- O. **POLE SIGNS**  
A type of Free-standing Sign that is anchored by poles or similar uprights.
- P. **PROFESSIONAL SIGNS**  
Signs which indicate the profession of a doctor of medicine, veterinarian, dentist, teacher, artist, architect, musician, lawyer, district justice, or practitioner of similar character.
- Q. **PROJECTING SIGN**  
A display Sign which is attached directly to any building wall and which extends more than twelve (12) inches from the face of the wall.
- R. **REAL ESTATE SIGN**  
A temporary Sign indicating the sale, rental or lease of the premises on which the Sign is located.
- S. **SIGN AREA or SIZE**  
Includes, the entire Sign, together with all moldings, battens, cappings, nailing strips, latticing, and platforms which are attached and are part of the Sign proper or incidental to its decoration. For the purposes of this Article, Signs which are composed of letters, works, or representations only and which do not form a square or rectangular pattern shall be considered to include in Sign area a square or rectangle as drawn at the outer limits of the letters, words, or representation.
- T. **TEMPORARY SIGNS**  
A Sign notifying of or advertising a special event, such as festivals, concerts, or exhibits, or sale of seasonal agricultural products, being displayed for not more than fifteen (15) days in duration. A Temporary Sign may be portable.
- U. **WALL SIGNS**  
Any Sign erected against the wall of any building, or displayed on windows or doors, or displayed with the exposed face thereof in a plan parallel to the face of said wall, window, or door and which Sign is mounted at a distance measured perpendicular to said wall not greater than twelve (12) inches.

**SECTION 1703. SIGNS IN NON-COMMERCIAL DISTRICTS**

The following types of Signs and no others shall be permitted in the R-B and R-M and for residential uses in all other Districts, except as otherwise provided in the district regulations:

- A. Official traffic Signs
- B. Professional Accessory Use or nameplate Signs, provided that:
  - 1. The size of any such Sign shall not exceed two hundred (200) square inches.
  - 2. Not more than one (1) such Sign shall be erected for each permitted use or Dwelling Unit.
- C. Identifications Signs for Farms or estates, Schools, Churches, Hospitals, and similar permitted uses other than Dwellings, provided that:
  - 1. The size of any such Sign shall not exceed twenty (20) square feet.
  - 2. Not more than two (2) such Signs shall be placed on premises held in single and separate ownership unless such premises fronts on more than one (1) Street, in which case two (2) such Signs may be erected on each Street frontage.
- D. Identifications Signs for subdivisions, or Multi-Family developments, provided that:
  - 1. The size of any such Sign shall not exceed twenty (20) square feet.
  - 2. Not more than one (1) such Sign shall be placed on premises held in single and separate ownership unless such premises fronts on more than one (1) Street, in which case one (1) such Sign may be erected on each Street frontage.
- E. Real Estate Signs, including:
  - 1. Signs advertising the sale or rental of premises, providing that:
    - a. the size of any such Sign shall not exceed nine (9) square feet, and that

- b. not more than one (1) such Sign shall be placed on premises held in single and separate ownership unless such premises front on more than one (1) Street, in which event one (1) such Sign may be placed on each frontage.
  2. Development Signs, provided that:
    - a. the size of any such Sign shall not exceed nine (9) square feet,
    - b. not more than one (1) such Sign shall be erected for each two hundred fifty (250) feet of Street frontage, and
    - c. all such Signs shall be removed upon completion of active work on the development.
- F. “No Trespassing” Sign or Sign indicating the private nature of a driveway or premises, provided that the size of any such Sign shall not exceed two (2) square feet.
- G. Artisans’ Signs, provided that:
  1. Such Signs shall be erected only on the premises where such work is being performed.
  2. The size of any such Sign shall not exceed four (4) square feet.
  3. Such Signs shall be removed promptly upon completion of active work.
- H. Bulletin Board Signs for non-profit institution and organizations, such as Churches and Schools, provided that the Sign area does not exceed twelve (12) square feet, and if illuminated, is indirectly illuminated.
- I. Signs on Non-Conforming Use premises, provided that:
  1. The total area of all such Signs relating to a single use at the effective date of this chapter by which any Sign shall be made non-conforming shall not be increased.

2. No such Sign shall be enlarged or relocated except when authorized as a Special Exception by the Zoning Hearing Board. This shall not apply to repair and maintenance of existing Signs. A non-conforming Sign which has been damaged or destroyed by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the same purpose for which it was used before its damage or destruction provided that a Sign permit for such reconstruction shall be applied for within one (1) year from the date of damage or destruction.
- J. Temporary Signs, provided that:
1. The size of such Sign shall not exceed sixteen (16) square feet.
  2. The Sign shall be removed immediately upon completion of the special event, but in no event later than forty-five (45) days after issuance of permit as required by §2004(B).

#### **SECTION 1704. SIGNS IN COMMERCIAL, MULTIPLE USE AND LIMITED INDUSTRIAL DISTRICTS**

The following types of Signs shall be permitted for non-residential uses in the C-1, C-2, WMU, MU, LMU and LI Districts:

- A. Any Sign permitted in residence districts which relates to a use permitted in the district.
- B. Real estate Signs advertising the sale or rental of premises, provided that:
  1. The size of any such Sign shall not exceed sixteen (16) square feet.
  2. Not more than one (1) such Sign shall be placed on premises held in single and separate ownership unless such premises fronts on more than one (1) Street, in which case one (1) such Sign may be placed on each Street frontage.
- C. Business or related Signs as follows:
  1. Business or similar Signs in conjunction with a permitted uses, provided that:

- a. the total area on one (1) side of all Signs placed on or facing any one (1) Street frontage of any one (1) premises shall not exceed one (1) square foot for each lineal foot of building frontage.
- b. the total area on one (1) side of any one (1) freestanding Sign shall in no case exceed thirty (30) square feet for a single business on a Lot or sixty (60) square feet for a Sign advertising multiple business on a Lot. Only one (1) freestanding Sign shall be permitted for any Lot, except for corner Lots where one freestanding Sign shall be permitted for each Street frontage.
- c. any free-standing Sign, exceeding thirty (30) square feet shall be in the form of a Monument Sign.

## **SECTION 1705. GENERAL REGULATIONS**

The following restrictions shall apply to all permitted Sign uses:

- A. No Sign shall be placed in such a position that it will cause danger to traffic on a Street by obscuring the view.
- B. No Sign, other than Signs authorized by §1703(A) shall be erected within the lines of any public Street or public sidewalk or shall be closer to a curb or edge of Street cartway than ten (10) feet.
- C. No stringing of light bulbs or placing of luminaries which create the same effect; no animated Sign; and no Signs that revolve, swing, have movable parts, flashing lights, or reflectors shall be permitted. No advertising Sign, banner, pennant balloon, spinners, or display, whether constructed of cloth, canvas, plastic, wallboard, or other materials shall be erected, suspended, or hung on any property except that the Zoning Officer may permit in the C-2 zoning district the use of any such advertising Signs, banners, or displays for a period of not more than seven (7) consecutive days nor more than twenty-eight (28) days in any one (1) calendar year, provided that:
  1. No such Sign or display shall (i) exceed the Height of signage permitted for permanent signage or (ii) cause the total area of signage to exceed in size the area permitted for permanent signage (determined by including the area of any existing permanent signage) as provided for in such zoning district .

2. No Sign shall be placed in such a position that it will cause danger to traffic on a Street or for interior circulation by obstructing the view.
- D. No Sign shall project over a public highway.
  - E. Each Sign must be maintained in good condition and repair.
  - F. All Signs shall be made a harmonious part of the architectural design of a new commercial or limited industrial construction or major Alteration of existing buildings. Drawings submitted for Sign permits shall show size, location and illumination in detail.
  - G. A Sign shall be erected only on the premises on which the use to which the Sign relates is conducted, except when permitted as a Conditional Use pursuant to Section 802(C)1.y of this Ordinance, or an Off-Site Directional Sign. **[Amended by Ord. No. 2015-04]**
  - H. No flashing Signs or Signs with intermittent illumination shall be permitted. Except in the C-2 Highway Commercial and MU Multiple Use zoning districts, (i) no Sign shall be illuminated either internally or with backlighting that projects light through the Sign or shall use LED, neon, luminous or similar types of bulbs or tubes, including but not limited to, signs with mechanically or electronically changing messages or electronic digital signs, and (ii) no Illuminated Sign shall be permitted except a Sign that is illuminated externally by indirect lighting (i.e., not illuminated internally or with backlighting that projects light through the sign) emanating from an overhead source that shields the light from view to prevent spillage of light onto any Streets or adjacent properties and that is attached to the exterior of the Sign itself. **[Amended by Ord. No. 2015-04]**
  - I. No Sign shall project above the lowest edge of the roof of a building.
  - J. The area of one (1) side of a directional Sign shall not exceed six (6) square feet.
  - K. All Signs shall be securely mounted or fastened to the building upon which they are erected or, if freestanding, must be securely and safely installed in the ground. The installation of all Signs must be approved by the Building Inspector.
  - L. No freestanding Monument Sign shall, at its highest point, be more than twelve (12) feet above ground level, and no Free-Standing Pole Sign shall, at its highest point, be more than ten (10) feet above ground level.

- M. Bulletin Board Signs shall not be permitted in conjunction with any commercial use, but are limited to non-profit institutions and organizations such as Churches and Schools.
- N. Changeable Copy Signs shall be subject to the restrictions set forth in subsection H of this §1705 and shall be permitted in conjunction with commercial uses only in the following circumstances:
  - 1. Changeable copy shall not be used to advertise merchandise or special sales events.
  - 2. Changeable copy shall be used only to display information required by law or regulation to be displayed, such as gasoline prices.
  - 3. The Sign area of a Changeable Copy Sign shall be included in the total permissible area of the Sign.

#### **SECTION 1706. SIGNS IN HISTORIC DISTRICTS**

Any Sign proposed to be erected in the Historic District as defined in the Historic District Overlay Map shall comply with the provisions of §1214 of this Ordinance, in addition to the requirements of this Article.

#### **SECTION 1707. BILLBOARD SIGNS AS PRINCIPAL USES**

Where authorized as a conditional use, a Billboard Sign may be permitted as the principal use of the lot upon which it is proposed to be located, provided that the proposed Billboard Sign meets the following requirements:

- A. Not more than one Billboard Sign shall be permitted on a single lot. The standards set forth in this Section 1707 shall supersede the requirements for principal uses as set forth in the respective district regulations for the zoning district in which a Billboard Sign is proposed.
- B. The minimum net lot area must be 10,000 square feet and the minimum lot width at the front lot line and at the front yard setback shall be 85 feet. The lot shall not contain any other buildings, structures or improvements, except those necessary for the operation, maintenance or security of the Billboard Sign.
- C. The total height of any Billboard Sign shall not exceed 20 feet, measured from the average ground level to the top of the sign, including all structural

components. There shall be a minimum of six (6) feet of clearance (not including structural ground supports) under the lower edge of the signboard.

- D. A Billboard Sign structure may have no more than two sign faces of equal size, shape and dimension; the total display area of a Billboard Sign shall not exceed 160 square feet on one side, including border and trim, but excluding supports.
- E. No portion of a Billboard Sign shall be located closer than 40 feet to the side or rear boundary lines of the lot upon which the sign is erected.
- F. No portion of a Billboard Sign shall be located closer than 15 feet from the ultimate right-of-way of Baltimore Pike (U.S. Route 1). No Billboard Sign shall be located within the safe clear sight distance or safe stopping distance of a signalized intersection, which distance shall be determined in accordance with applicable PennDOT standards; no portion of a Billboard Sign shall interfere with or obstruct vehicle traffic, travel or ingress and egress to a public street; a Billboard Sign shall be located such that, in the event of a collapse, no portion of the sign or its supporting structure shall land within the road right-of-way or on adjacent property.
- G. No Billboard Sign shall be located closer than 500 feet to any other Billboard Sign, nor within 120 feet of the right-of-way line of any intersecting street, as measured between the closest points of each sign.
- H. Where a Billboard Sign would be visible from a residential district or use, the sides and/or rear yard shall be screened and buffered in accordance with the requirements of Section 1812(D) of this Ordinance.
- I. Each lot upon which a Billboard Sign shall be located shall have a maximum of 10% thereof covered by impervious surfaces. All non-impervious surfaces shall be landscaped in accordance with a landscape plan to be submitted to the Board of Supervisors as part of the Conditional Use application.
- J. A Billboard Sign structure may contain only one sign or advertisement per face. No part of the sign shall extend beyond the borders of the signboard structure.
- K. No revolving or electronic Billboard Signs, including, but not limited to, signs illuminated either internally or with backlighting that projects light through the sign, signs that use LED, neon, luminous or similar types of bulbs or tubes, flashing signs, signs with intermittent illumination, signs with mechanically or electronically changing messages, or electronic digital signs shall be permitted. Any illumination of the Sign face shall be in compliance with this Ordinance, and no Billboard Sign shall be permitted except a Sign that is illuminated externally by indirect lighting (i.e., not illuminated internally or with backlighting that

projects light through the sign) emanating from an overhead source that shields the light from view to prevent spillage of light onto any Streets or adjacent properties and that is attached to the exterior of the Sign itself. **[Amended by Ord. No. 2015-04]**

- L. All Billboard signs and landscape materials as approved by the Board of Supervisors shall be maintained in good condition. The structural components of the sign shall be maintained to ensure their integrity and to prevent the possible collapse of the sign. Any damage to the structural components shall be repaired within 24 hours of receipt of notice of such damage from the Township. Signs having ripped, defaced or partial advertisements shall be immediately repaired by having the advertisement restored to its original condition, removed, or covered.
  
- M. The grant of conditional use approval for construction of any Billboard Sign upon a lot which is subdivided to meet, upon subdivision approval, the requirements of Section 1707(B), but would otherwise not be in compliance with the area and bulk regulations applicable to principal uses within the zoning district in which the lot is located, shall be conditioned upon the applicant's recording of a Declaration of Restrictions in form and content satisfactory to the Township Solicitor, which shall provide public notice with respect to the lot and Billboard signage as follows:
  - 1. The subject property, while meeting the area and bulk requirements for construction and location of a Billboard Sign, does not meet the area and bulk requirements for any other permitted use within the [specify C-2 or MU] zoning district. Consequently, the subject property may be used only for construction and location of a Billboard Sign, and cannot be used for any other use which would otherwise be permissible within the [C-2 or MU] zoning district.
  
  - 2. Applicant acknowledges that any future hardship created by the fact that the subject property does not contain sufficient lot area for any principal use other than a Billboard Sign is self-created, and cannot form the basis for the application for any variance from the otherwise applicable minimum lot area and bulk requirements.
  
  - 3. In the event that the principal use of the subject property for a Billboard Sign shall terminate at any time in the future, the subject property may only be used (i) for another Billboard Sign, or (ii) reverse subdivision, whereby the subject property is appended to an adjacent parcel of land in order to achieve the applicable minimum lot area and bulk requirements for a use permitted in the [C-2 or MU] zoning district other than a Billboard Sign.

## **ARTICLE XVIII GENERAL REGULATIONS**

### **SECTION 1801. APPLICABILITY OF REGULATIONS OF THIS ARTICLE**

Unless otherwise stated, all regulations of this Article shall apply in all zoning districts.

### **SECTION 1802. VISIBILITY AT INTERSECTIONS**

On any corner Lot, no wall, fence, or other Structure, hedge, tree, shrub, or other growth exceeding 30" in height (measured from the finished grade of the Street) shall be erected, and no vehicles shall be parked or other obstacle be placed so as to cause danger to traffic or pedestrians on a Street by obscuring the view.

### **SECTION 1803. PROJECTIONS INTO REQUIRED YARDS**

- A. An arbor, open trellis, flagpole, unroofed steps, and unroofed terrace, recreational, or drying Yard shall be permitted with no restrictions.
- B. An awning or movable canopy may project into any required Yard not more than twenty-five (25) feet, but cannot be closer than fifteen (15) feet from the property line.
- C. An open fire escape or unroofed porch may project not more than six (6) feet into any required Yard.
- D. A deck may project not more than six (6) feet into any required side yard and not more than twenty (20) feet into any required rear yard.

### **SECTION 1804. FARM REGULATIONS**

Agricultural, farmhouses and usual Farm Buildings shall be permitted without restrictions except as follows:

- A. No Farm Building shall be constructed closer than eighty-five (85) feet to a front property line or closer than one hundred (100) feet to a side or rear property line, except that:
1. A turnout shed used for Livestock or horses may be constructed no less than twenty (20) feet from a Street Line.
  2. No barn shall be established closer than one hundred (100) feet to any property line.
  3. Silos and bulk bins shall be exempted from such setback requirements when attached to an existing building.

All other new construction, including Structures for temporary storage of feeds, shall conform to setback requirements set forth in this Section 1804.

- B. Mushroom growing operations shall be subject to both these regulations and those specifically for “mushroom plants” as set forth hereinabove; in case of conflict the more stringent shall apply.
- C. The processing, spreading or storage of mushroom compost or spent mushroom soil is not Agriculture or an Agricultural Operation except where used as a component of a bona fide fertilizer that is spread on the land in quantities appropriate for fertilizing the soil to grow crops on the property and where utilized in accordance with a nutrient management plan approved by the Chester County Conservation District.
- D. Manure storage shall be designed and operated in accordance with all applicable laws and regulations and all necessary permits shall be obtained from all governmental agencies having jurisdiction over such activity. In addition, no manure storage shall be established closer than one hundred (100) feet to any property line and manure may not be stored or piled in a Wetland, Floodplain, or steep slope having a grade of 20% or greater.
- E. The processing or preparation of products on the property on which they are grown or raised into products for human consumption may only occur in a Building that either (i) is primarily used as a Dwelling, (ii) was in existence prior to January 1, 2013 or (iii) has no more than 2,000 square feet of Impervious Coverage.

- F. The maximum number of large animals, such as equine animals or cattle, kept on a Farm shall not exceed a ratio of two (2) acres of land available and utilized for grazing of the first such animal on the Farm plus one (1) acre of land available and utilized for grazing of each additional animal on the Farm. All grazing areas shall be fenced.

## **SECTION 1805. SALE OF FARM PRODUCTS**

The display and sale of products for human or animal consumption shall be permitted on a Farm provided that:

- A. A substantial amount of such products sold in any one (1) year shall have been grown or raised on the property in which they are offered for sale.
- B. Parking space for at least six (6) cars shall be provided behind the Street Line.
- C. Sale of such products shall be conducted from a portable stand, dismantled or removed at the end of the growing season, or from a permanent building provided that such building shall be located at least forty (40) feet from the right-of-way of the road.

## **SECTION 1806. EXCEPTIONS TO HEIGHT RESTRICTIONS**

Except as provided in this Section, the height limitations of the Ordinance shall not apply to Church spires, belfries, cupolas and domes not intended for human occupancy, monuments, observation towers, flagpoles, Wireless Communication Facilities, radio and television transmission towers, masts, aerials, barns, and silos. The height of such Structures shall be no greater than the smallest horizontal distance between any façade of the Structure and the property line closest thereto. The Board of Supervisors may grant an increase to this maximum limit where it is demonstrated that the Structure incorporates safety features which, in the event the Structure is toppled, will prevent it from falling beyond the boundaries of the property.

**SECTION 1807. STRIPPING OF TOPSOIL**

Topsoil or sod may be removed only under the following conditions.

- A. As part of the construction or Alteration of a building or the grading incidental to such building.
- B. In connection with normal lawn preparation and maintenance on the Lot from which such topsoil or sod is removed.
- C. In connection with the construction or Alteration of a Street.
- D. Sod farming is permitted in accordance with principles of good practice.
- E. Mushroom farming operations are permitted in accordance with principles of good practice.

**SECTION 1808. EXCAVATION OF CLAY, SAND, GRAVEL, OR ROCK**

Except as specifically authorized as a Conditional Use in the LI Limited Industrial Zoning District, the excavation or extraction of clay, sand, gravel, rock, and other minerals shall be permitted, and the material thus excavated may be sold only under the following conditions as an accessory use to construction activities:

- A. As part of the construction of a building or the construction or Alteration of a Street.
- B. The surface of the Lot shall not be graded to a level below that of adjoining Streets.
- C. Excavation shall not be conducted in a way which will leave loose boulders exposed.

**SECTION 1809. SLOPE CONTROLS**

- A. Use Regulations

The following uses are the only uses permitted in the areas where the grade of a Slope exceeds twenty (20) percent:

1. Parks and outdoor recreational uses shall be permitted so long as their activities do not conflict with the use of the land as a watershed.
2. Tree farming, forestry and other agricultural uses when conducted in conformance with conservation practices that ensure adequate protection against soil erosion.
3. When authorized as a Special Exception by the Zoning Hearing Board subject to the provisions of §2109 and the use, area and bulk, and design standard regulations for the district in which the Lot lies, Single Family Dwellings or a portion thereof may be constructed on a Slope whose grade exceeds twenty (20) percent if the building is constructed in such a manner which does not substantially alter the existing grade and natural soil conditions.
4. In addition, the Applicant shall supply the following.
  - a. Site plan of the property indicating existing grades with contour lines at two (2) foot intervals and proposed grades within the area of the proposed construction.
  - b. Landscaping plan indicating proposed paved area, storm drainage facilities, retaining walls and ground cover, as well as trees and ornamental shrub locations.
  - c. Architectural plans, elevations and sections.
  - d. A statement prepared by a registered architect stating an explanation of the building methods to be used in overcoming foundation and other structural problems created by Slope conditions, preserving the natural watersheds and preventing soil erosion.

B. Grading and Erosion Control

During the preparation for, installation of, and use of areas coming under this control, the Developer shall meet the requirements specified in §1807 and §1808 of this Ordinance and relevant selections of the Subdivision and Land Development Ordinance with regard to Soil Removal, Grading, and Erosion Control.

C. Conditional Use

The Board of Supervisors may permit, by Conditional Use, the exemption of man-made Slopes (e.g., man-made Slopes within a Street right-of-way) from the provisions herein when it determines that construction, development or improvement within the man-made Slope will not be inconsistent with the purposes of Community Development Objectives, §103. It shall be the burden of the Applicant to demonstrate that the Slopes were man-made.

**SECTION 1810. REDUCTION OF LOT AREA**

No Lot shall be so reduced that the area of the Lot or dimensions of the Yards shall be smaller than herein prescribed.

**SECTION 1811. PHYSICAL PERFORMANCE REQUIREMENTS**

No land, building, Structure or premises in any District shall be used, altered or occupied in a manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive, or other hazard; noise or vibration; smoke, dust, odor, or other form of air pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of rodents or insects; or other substance, condition or element, in any manner or amount as to adversely affect the surrounding area. The following specific performance standards shall be applicable to all uses:

A. Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or any point beyond the Lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the Lot line using either seismic or electronic vibration measuring equipment.

B. Noise

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. In no event shall the sound-pressure level of noise radiated continuously from a facility at nighttime exceed at the Lot line the values given in Table I (set out hereafter) in any octave band of frequency. However, where the Lot line adjoins or lies within twenty-five (25) feet of the boundary of a residence or agricultural district, the sound-pressure levels of noise radiated at nighttime shall not exceed at the Lot line the values given in Table II (set out hereafter) in any octave band of frequency. The sound-pressure level shall be measured with a Sound Level Meter and an Octave Bank Analyzer that conform to specifications published by American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association Inc.)

**Table I**

Maximum permissible sound-pressure levels at the Lot line for noise radiated continuously from a facility between the hours of 9:00 PM and 7:00 AM.

Frequency Bank Cycles per Second	Sound Pressure Level Decibels re 0.002 dyne/cm <sup>2</sup>
20 – 75	69
75 – 150	60
150 – 300	56
300 – 600	51
600 – 1,200	42
1,200 – 2,400	40
2,400 – 4,800	38
4,800 – 10,000	35

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 PM and 7:00 AM, one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given above in Table I.

**Table II**

Maximum permissible sound-pressure levels at the Lot line for noise radiated continuously from a facility between the hours of 9:00 PM and 7:00 AM, where the Lot

line adjoins or lies within twenty-five (25) feet of the boundary of a residence or agricultural district.

<u>Frequency Bank Cycles per Second</u>	<u>Sound Pressure Level Decibels re 0.002 dyne/cm<sup>2</sup></u>
20 – 75	65
75 – 150	50
150 – 300	43
300 – 600	38
600 – 1,200	33

<u>Frequency Bank Cycles per Second</u>	<u>Sound Pressure Level Decibels re 0.002 dyne/cm<sup>2</sup></u>
1,200 – 2,400	30
2,400 – 4,800	28
4,800 – 10,000	26

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 PM and 7:00 AM, one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given above in Table II.

**Table III**

<u>Type of Operation in Character of Noise</u>	<u>Correction in Decibels</u>
Daytime operations only	plus 5
Noise source operates less than twenty (20) percent of any one (1) hour period	plus 5*
Noise source operates less than five (5) percent of any one (1) hour period	plus 10*
Noise source operates less than one (1) percent	

of any one (1) hour period	plus 15*
Noise of impulsive character (hammering, etc.)	minus 5
Noise of periodic character (hum, speech, etc.)	minus 5

\*Apply one of these corrections only

C. Air Quality

1. There shall be no emission of smoke, ash, dust, fumes, vapors, gases or other matter toxic or noxious to air which violates the Pennsylvania Air Pollution Control Laws, including the standards set forth in Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality Standards), Article III, Title 25, Pennsylvania Department of Environmental Resources, Rules and Regulations.
2. No use shall operate or maintain or permit to be operated or maintained any equipment, installation or device which by reason of its operation or maintenance will discharge contaminants to the air in excess of the limits prescribed herein unless he shall install and maintain in conjunction therewith such control equipment as will prevent the emission into the open air of any air contaminant in a quantity that will violate any provision of this Ordinance.
3. There shall be no emission into the atmosphere from any operation, of visible gray smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the United States Bureau of Mines, except that visible gray smoke of a shade no darker than No. 2 on shade chart may be emitted for a period or periods aggregating four (4) minutes in any eight (8) hour period. These provisions applicable to gray smoke, shall also apply to visible smoke of any other color, but with an equivalent apparent opacity.
4. In no event shall any firm or corporation permit or cause the discharge of particulate matter into the atmosphere from incinerators in excess of 9.1 grain per cubic foot of gas at standard conditions corrected to twelve (12) percent CO<sub>2</sub> except as designated under specific contaminants.

5. It shall be unlawful for any person to install, alter, enlarge, or make additions to any existing or new facilities, equipment, or operation that may be a source of air contaminants or to install, alter, enlarge, or make additions to any existing or new equipment, devices, or apparatus, the use of which may eliminate, reduce, or control the emission of air contaminants, until an application, including plans and specifications, has been filed with the Township and a permit has been issued following review and approval by the Township Engineer. Should the Township require the services of a professional or consultant for review of submitted plans and specifications, the Applicant shall bear all costs for such services.
  - a. Two sets of plans shall be submitted with each application. If the plans are approved, one (1) copy shall be retained by the Township and the second copy shall be kept at the site of construction.
  - b. Each application shall be examined by the Township which shall approve or reject the application within thirty (30) days from the date of filing thereof.
  - c. Where a permit also is required from the Commonwealth of Pennsylvania Department of Environmental Resources, no Township permit shall be issued until the State permit has been obtained and evidence of the same has been given to the Township.
  - d. After the completion of any work requiring a permit, the Applicant shall apply for a certificate of approval. The Certificate shall be issued by the Township and shall certify that the work has been done in accordance with the approved plans.
  - e. The Township may, at its discretion, require tests to be made of any work before it issues a certificate of approval. Such tests shall be made at the expense of the Applicant.

D. Electrical and Electromagnetic Interference

There shall be no electrical or electromagnetic disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

E. Fire and explosive Hazards

All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosion, and adequate fire-fighting and fire-suppression equipment and devices as detailed and specified by laws of the Commonwealth of Pennsylvania. All buildings and Structure sand activities within such buildings and Structures shall conform to the Building Code, the Fire Prevention Code, other applicable Township or County Ordinances. Any explosive material shall conform to the requirements of Chapter 211, Title 25, Rules and Regulations, Pennsylvania Department of Environmental Resources, for Storage, Handling and Use of Explosives.

F. Radioactive Materials

There shall be no activities which emit dangerous radioactivity at any point. If any use is proposed which incorporates the use of radioactive material, equipment or supplies, such use shall be in strict conformity with Chapter 221, 223, 225, 227, and 229, Title 25, Article V, §1801.

G. Glare and Heat

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion, welding, or otherwise, so as to be visible at the Lot line shall be permitted. These regulations shall not apply to Signs or floodlighting of parking areas otherwise permitted by this Ordinance. There shall be no emission or transmission of heat or heated air so as to be discernible at the Lot line.

H. Non-Radioactive Liquid or Solid Waste

There shall be no discharge at any point into any public or private sewerage system, or watercourse, or into the ground, of any materials in such a way or of such a nature as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of the Commonwealth of Pennsylvania, specifically Chapters 73, 75, 95, and 97, Title 25, Pennsylvania Department of Environmental Resources, Rules and Regulations.

I. Odor

No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point beyond its Lot lines. For purposes of determining the level of odor which shall be considered to be in violation of the provision as being offensive, the following standards shall apply:

- a. The odor must cause an unpleasant reaction by persons of ordinary and reasonable sensibility to odors.
- b. The offensive odor must occur, at minimum, on an occasional or periodic basis (rather than on a single or few occasions), but need not occur on a frequent basis or be persistently prevalent.
- c. The intensity of the odor shall be in such concentration as to enable recognition of the odor by those offended by it.
- d. An odor shall not be in violation of this Ordinance unless it unreasonably interferes with the comfortable enjoyment of life and property.
- e. Odors arising from the production of agricultural commodities in their unmanufactured state on the premises of a farm operation shall not be in violation of this Ordinance.
- f. The characterization of an odor as offensive may be proven by testimony of those offended by it, meeting the standards of subsections a, b, and c, and shall not require measurement by instrumentation.

J. Public Health and Safety

No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

K. Farm Operations

Provided that a farm operation or agricultural use shall be in compliance with the applicable district regulations of §1804 and §1805 of this Ordinance, and shall further be in compliance with all applicable regulations of the Department of Environmental Resources, whether or not referred to in this Ordinance, such operation or use shall be exempt from the performance standards set forth in this section relating to glare (§1811(G)) and odor (§1811(I)), where non-compliance relates to a periodic or short term activity integral to the farm operation, such as manure spreading.

**SECTION 1812. DESIGN STANDARDS****A. Parking****1. Off-Street parking regulations for non-residential uses.****a. Standards**

- i. Off-Street parking spaces, with proper and safe access from a Street, shall be provided on each Lot, either within a Structure or in the open, to serve the uses within the district adequately.
- ii. Parking spaces for each vehicle shall be at least nine and one-half (9½) feet by nineteen (19) feet in size. Parking spaces shall have an approved all-weather surface and shall have a safe and convenient access in all seasons.
- iii. Parking Lots for over twenty (20) vehicles shall be so divided by permanent raised curbing that access lanes are clearly defined, and that moving traffic will be confined to designated access lanes.
- iv. Off-Street parking spaces must be provided on the Lot for which they are intended unless satisfactory evidence is presented to the Zoning Officer that an agreement exists which provides for sufficient permanent off-Street parking spaces on another Lot.
- v. Parking spaces shall not be located within Front Yard setback areas, screening, or Buffer areas, or one-half of required Rear or Side Yard setback areas, except as provided in §1812(B)4 and §1812(B)7.
- vi. Parking areas shall be landscaped in accordance with §1812(C).
- vii. Any parking for five (5) or more vehicles on a Lot which abuts a residence district or a Lot for residence purposes, whether Single Family or Multi-Family, shall be screened from the adjacent property by a Buffer planting strip not

less than twenty (20) feet in width and meeting the requirements of §1812(D).

- viii. Aisles serving parking spaces shall have a minimum width of twenty-four (24) feet for back-to-back double bay parking and of eighteen (18) feet for single bay 90-degree parking.

b. Requirements

There shall be sufficient parking spaces provided for each use so that there is a minimum of one (1) space for each employee on the shift of greatest employment, plus additional parking spaces provided in accordance with the following standards for particular uses. Where any of the following uses designate a specific employee based parking requirement, the particular use's employee parking requirement shall apply. In the case of parking computations which result in the requirement of a fractional space, the fraction shall be counted as one parking space.

- i. Golf course.

Three parking spaces for each tee.

- ii. Park, Botanical Garden, Museum, Equestrian Training Facility, pony club, fox hunting club, or other outdoor recreational use.

Variable, depending upon proposed intensity of use, subject to approval of the Board of Supervisors.

- iii. Elementary School.

One (1) parking space for every twenty (20) students, plus one (1) parking space for each ten (10) fixed seats or one hundred (100) square feet of floor area in an auditorium or gymnasium.

- iv. All other Schools.

One (1) parking space for each ten (10) students, plus one (1) parking space for each ten (10) fixed seats or one hundred (100) square feet of floor area in an auditorium or gymnasium.

- v. Business, professional, governmental, financial, or institutional office.

One (1) parking space for each three hundred (300) square feet of floor space.

- vi. Laboratory or research facilities.

Sufficient parking to accommodate visitors, subject to the approval of the Board of Supervisors.

- vii. Wholesale sales, storage, or distribution.

One (1) parking space for each one thousand (1,000) square feet of sales area.

- viii. Gift, art, craft and antique shops, food stores, and pharmacies.

One (1) parking space for each one hundred fifty (150) square feet of sales area.

- ix. Personal service shops and other retail stores.

One (1) parking space for each two hundred (200) square feet of gross floor area.

- x. Eating and drinking establishments and Event Space.

One (1) parking space for each two (2) seats and an additional ten (10) percent for employees. For Take Out Restaurants, one (1) parking space for each 50 square feet of gross floor area. As appropriate, sufficient bus parking spaces shall be provided, subject to the approval of the Board of Supervisors.

- xi. Hotels and Motels.

One (1) parking space for each guest room and one (1) additional space per ten (10) guest rooms for employees. As appropriate, sufficient bus parking spaces shall be provided, subject to the approval of the Board of Supervisors.

- xii. Supermarkets.
- One (1) parking space for each two hundred (200) square feet of gross floor area.
- xiii. Gasoline station.
- Six (6) stacking spaces for each pump island and one (1) additional parking space per pump island for employees.
- xiv. Other public places.
- One (1) parking space for each four (4) seats or fifty (50) square feet of floor area.
- xv. Funeral homes.
- Sufficient parking to accommodate proposed use, subject to approval of the Board of Supervisors.
- xvi. Automobile sales and service, garage, or automobile repair shop.
- In addition to parking requirements for gasoline facilities, display and storage areas: two (2) parking spaces for each two hundred (200) square feet of floor area.
- xvii. Newspaper publishing, job printing, and all other commercial services.
- One (1) parking space for each five hundred (500) square feet of floor area.
- xviii. Hospital, Assisted Living Facility, or Rehabilitation Facility.
- One and one-half (1½) parking spaces for each bed for patient use (including outpatients) and one (1) additional parking space for every five (5) beds for employee parking.
- xix. Retirement Community.
- Two (2) parking spaces for each Dwelling Unit, plus one (1) additional space for every five (5) Dwelling Units for

employee parking. (See xviii above for parking requirements for Hospital units in retirement communities.)

xx: Mixed uses.

Sufficient to equal the total required parking for each separate use as if each were free-standing.

xxi. Theaters

One (1) parking space for every four (4) fixed seats.

- c. For any use permitted by Special Exception or Conditional Use, it shall be the burden of the Applicant to present evidence of the parking needs of the proposed use, and additional evidence of the parking needs of the proposed use, and additional evidence thereon may be presented by the Planning Commission or Board of Supervisors. The Zoning Hearing Board, in granting a Special Exception or the Board of Supervisors in granting Conditional Use approval, may attach specific parking requirements, which may be equivalent to, greater than, or less than the requirements set forth above in §1812(A)1.b.
- d. Where the Applicant can demonstrate that the number of parking spaces for two or more uses are complementary in nature, and thus a sharing of parking is reasonable and appropriate, the total number of parking spaces may be reduced by the Board of Supervisors or Zoning Hearing Board, and they may attach the following conditions to the approval of plans:
- i. The design of the parking Lot, as indicated on the land development plan, must designate sufficient space on the plan to provide for the total requirement of parking spaces. All of the parking shall comply with the requirements of the Township ordinances for the location of parking. For purposes of Lot Coverage calculations, the calculations shall be completed based on the full parking requirement.
  - ii. A reduction of up to 20% of the required number of parking spaces is permitted, but the location of all of the required spaces for all of the uses shall be clearly marked on the land development plans.

- iii. The parking area which is reserved shall be attractively landscaped, and such area shall be included on the landscaping plans submitted by the Applicant.
- iv. The Applicant shall enter into a written agreement with the Township as a condition of final plan approval, or approval by the Zoning Hearing Board, that after one year following the issuance of the last occupancy permit, any additional parking space not initially built shall be provided at the Applicant's expense, should it be determined in the sole discretion of the Township, that the full parking space requirement, or portion thereof, is needed.

2. Off-Street parking regulations for residential use.

- a. A minimum of two (2) parking spaces with proper and safe access from Street or alley shall be provided for each Dwelling Unit either within a Structure or in the open. Driveways shall be so constructed as to permit vehicles to turn around on the Lot, so as to eliminate the necessity of backing either on or off the Lot. Parking space for each vehicle shall be at least nine and one-half (9½) feet by nineteen (19) feet in size. Parking spaces shall have an approved gravel or other all-weather surface and shall have a safe and convenient access in all seasons.
- b. In addition, any residential use other than Single Family or Two-Family shall comply with §1812(A)1.a.

B. Access and Highway Frontage

In order to minimize traffic congestion and hazard, to control Street access in the interest of public safety, and to encourage development of Street and highway frontage:

- 1. Unless clearly impractical, all Lots in a residential subdivision shall have direct access only to a local residential Street.
- 2. Where Lots are created having frontage on existing arterial, collector, or rural roads within the Township, the subdivision Street pattern shall provide reverse frontage access to local Streets within the subdivision rather than access to the arterial, collector, or rural road. All such Lots shall be provided with a minimum Rear Yard of eighty (80) feet from the Street Line of any arterial, collector, or rural roads.

3. All Lots radiating from a cul-de-sac shall have a minimum of fifty (50) feet frontage at the Street right-of-way line.
4. No driveway shall be situated within five (5) feet of a side or rear property line, except where common driveways are utilized.
5. No parking Lot, area for off-Street parking, or area for the storage or movement of motor vehicles shall directly abut a public Street or highway unless separated from the Street or highway by at least five (5) feet and a raised curb or barrier planting strip, except for necessary access ways to any one public Street or highway for each five hundred (500) feet of frontage. Where practical, access to parking areas shall be provided by a common service driveway or minor Street in order to avoid direct access on a major Street or highway. No such access way shall be more than thirty-five (35) feet in width.
6. All driveways, aisles, maneuvering spaces, vehicular service areas, or spaces between or about buildings, other than those relating to a Dwelling, shall be adequately illuminated.
7. Within C-2 Highway Commercial, LI Limited Industrial, MU Multiple Use, and LMU Limited Multiple Use Districts, parking areas within the Front Yard setback area shall be permitted; however, no such parking areas shall be located closer to a Street right-of-way line than twenty (20) feet. In the case of Lot fronting on Route 1, no such parking areas shall be located closer to the Street right-of-way than forty (40) feet, unless the depth of any one side property is two hundred fifty (250) feet or less from the proposed right-of-way of Route 1, in which case, the parking may be within twenty (20) feet of the Street right-of-way.

C. Landscaping

1. Any part or portion of a site which is not used for buildings, other Structures, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped according to an overall plan, prepared by a registered landscape architect.
2. An area not less than ten (10) percent of the paved area within the proposed parking Lot, shall be landscaped and continually maintained. The area within the proposed parking Lot shall be defined to include access aisles, landscape islands, and storage areas suitable for parking. Driveways where no parking is proposed, shall not be considered part of

the parking Lot. Planting along the perimeter of a parking area, whether for required screening or general beautification, will not be considered as part of the required parking area landscaping.

Parking areas should be separated from driveways and other access aisles by ten (10) foot wide islands.

A landscape island shall be required after every fifteen (15) parking spaces in a row. Such island shall be a minimum of ten (10) feet in width, and shall contain not less than 190 square feet of Green Area.

For any parking Lot that exceeds 100 parking spaces in size, the parking area shall be divided by landscape islands which shall be inserted after every four rows of parking. For example, the parking Lot shall be comprised of four (4) rows of parking at 76 feet width (19' x 4'), and two aisles (24' x 2') at 48 feet in width. The landscape island shall be arranged perpendicular to the parking spaces, and shall be inserted at least every 124 feet (76' of parking spaces + 48' of aisle space). The divider island shall be a minimum of ten (10) feet wide.

The area of all parking islands required herein and other unpaved areas within parking Lots shall be Green Areas, and thus landscaped with trees and a mixture of shrubs and ground cover in accordance with §1812(D)2.a.iii(D). Preservation or relocation of existing trees within the parking area of greater than 6" in caliper is encouraged to meet this requirement. At least two (2) shade trees of a minimum size of 2.5" to 3" in caliper shall be provided within the interior of each parking Lot for every fifteen (15) parking spaces. Shrubs shall be 24" to 36" in height. Such landscaping shall be located on the required islands and other Green Areas within the Lot.

3. All mechanical equipment not enclosed in a Structure shall be fully and completely screened from view from any point in a manner compatible with the architectural and landscaping style of the remainder of the Lot. Such screening shall be subject to site plan and architectural review by the Township.

D. Screening and Buffering

1. Screening and Buffering requirements shall be applicable when a use of land in Column A abuts a use of land in Column B.

<u>Column A</u>	<u>Column B</u>
Any industrial or commercial use	Any Use
Any Multi-Family residential use	Any Single Family, Two Family, Multi-Family or agricultural use
Any Use permitted by §1102(A) 1, 2, or 3 or by §1102(C) or (D)	Any Use
Mobile Home Park	Any Single Family, Two Family, Multi-Family or agricultural use or any Church or School
Cemetery, Church or School	Any Use

2. In any such instance, the land to be used as set forth in Column A shall comply with the following screening and Buffering requirements.

a. The entire perimeter of the tract undergoing development, except where access drives cross the Buffer in a perpendicular manner, shall be provided with a Buffer planting strip, having a minimum width of twenty (20) feet from and along Street right-of-way lines. And a width along all other property lines varying from twenty (20) feet to one-hundred (100) feet, based upon the following considerations:

i. Where the adjacent property is zoned R-B Residential, the width of the Buffer shall be between forty (40) feet and one-hundred (100) feet, with the exact width to be determined by

(A) the intensity and potential adverse impact of the proposed use on the adjacent property, and

(B) the size of the property to be developed (a larger size property being subject to larger Buffer requirements)

ii. Where the adjacent property is zoned other than R-B Residential, the width of the Buffer shall be between twenty (20) feet and forty (40) feet, with the exact width to be determined in accordance with the criteria specified in i.(A) and i.(B) above.



Evergreen Trees	6' to 8' in height
Deciduous Under-Story Trees	6' to 8' in height
Shrubs	24" to 36" in height

- (D) The species selected shall consider the existing site conditions; the functional objectives of the plantings which may include, but not necessarily be limited to, visual screening, noise abatement, wildlife habitats, and aesthetic values; and hardiness, resistance to insects and disease, longevity and availability. At least 75% of the plant material shall be native species.
  - (E) No plantings shall be placed with their center closer than five feet to a property line of the tract.
  - (F) In areas void of existing vegetation, vertically and horizontally meandering berms shall be incorporated to achieve a natural rolling park-like landscape. Berms shall be two feet to eight feet in height, averaging six feet. The width shall vary with side Slopes of 1.5 to 1.3 without adversely affecting natural drainage. The berms may be broken at points of vehicular or pedestrian access.
  - (G) Walls and fences may be included within the Buffer planting strip where deemed appropriate by the Board of Supervisors. Such walls may allow for a reduction in plant material, if approved by the Board of Supervisors.
  - (H) Buffer planting strips shall be perpetually maintained. All dead plant material shall be removed and replaced immediately or during the next growing season.
- (iv) The plantings in the perimeter Buffer planting strip required by this §1812(D)2.a may be modified and replaced with alternative landscaping shown on a landscaping plan approved by the Board of Supervisors.
- b. Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, communication towers, vents, and any other Structures or equipment which rise above the roof line shall

be architecturally compatible or effectively shielded from view from any public or private dedicated Street by an architecturally sound method which shall be approved, in writing, by the Township before construction or erection of said Structures or equipment.

- c. Screening of a parking Lot is required along all public Streets. Such screening shall include appropriate planting, such as compact evergreen hedge, or a combination of berming and planting of deciduous, flowering, or evergreen trees and shrubs to create a continuous landscape strip at least ten (10) feet minimum in width, and designed to mitigate the visual impacts of the proposed parking area. Plant sizes shall be a minimum of 2.5" to 3" in caliper for shade trees, five (5) to six (6) feet in height for evergreen and ornamental trees, and two (2) feet in height for shrubs. At least one (1) shade tree shall be provided for every fifty (50) linear feet of Street frontage. Also permitted is a masonry wall ornamental Structure not more than four (4) feet in height. Any such wall or similar Structure shall enclose the parking Lot and shall be in harmony with the general architectural design of the principal building or buildings. Required plantings shall not interfere with motorist visibility at intersections.

#### E. Storage

All storage shall immediately be completely screened from view from any public right-of-way and any contiguous residential use. Screening shall consist of evergreen planting or an architectural screen. All organic rubbish or garbage shall be contained in tight, vermin-proof containers which shall also be screened from view from any public right-of-way and any contiguous residential use.

#### F. Interior Circulation

1. Interior drives shall be designed so as to prevent blockage of vehicles entering or leaving the site. Drives may be one (1) way or two (2) way. Areas designed for loading and unloading, refuse collection, fuel delivery, and other service vehicles shall be so arranged as to prevent blocking or interfering with the use of access ways, automobile parking facilities, or pedestrian ways and to prevent backing out into a Street.
2. No Multi-Family residential or commercial building shall be located more than one hundred fifty (150) feet from a duly dedicated, improved, and accessible fire lane easement as defined herein, nor more than six hundred (600) feet from a duly dedicated, accessible, and improved

public Street. If any such building is located farther than six hundred (600) feet from a public Street, then a subdivision plat must be filed and approved by the Board of Supervisors before the development plan shall be considered for approval.

3. Fire lane easements
  - a. Fire lane easements shall have a minimum unobstructed right-of-way width of forty (40) feet, and there shall be constructed within the right-of-way an all-weather and well-drained surfaced cartway with a minimum width of twenty (20) feet. The extension of fire lane easements shall begin from one (1) or more existing and improved public Streets.
  - b. Fire easements which curve, turn, or change directions shall have a minimum radius of fifty-five (55) feet of pavement. Fire lane easements containing reserve curves shall have a minimum center lane tangent length of fifty (50) feet between curves.
  - c. Dead-end fire lane easements shall be terminated with an unobstructed vehicular turnabout or cul-de-sac with a minimum right-of-way radius of forty-five (45) feet and shall have a minimum surfaced radius of thirty-five (35) feet. Dead-end fire lane easements shall have a maximum length of four hundred (400) feet. The location of fire lane easements shall conform to plans for the extension of Streets, sanitary sewers, water mains, storm sewers and other drainage facilities and public utilities as contained in this and other ordinances of the Township and shall provide adequate access to building by firemen or other emergency services.
4. Drive-through windows at which a customer receives service directly from a building without leaving the customer's automobile, whether the service is provided by a human being or a machine (such as an ATM), such as provided by: a Restaurant, Drive-In; a bank; or a pharmacy, shall be subject to the following restrictions:
  - a. Drive-through windows shall only be permitted on a single-use, free-standing building.
  - b. No more than two lanes shall be permitted to access the drive-through window on any building.

G. Lighting

1. Where required by this Ordinance, the owner shall install or cause to be installed at the owner’s expense, metal pole Street lights serviced by underground conduit in accordance with a plan to be prepared by the owner’s engineer and approved by the utility company and by the Board of Supervisors. The requirements of metal poles may be waived in such instances as approved by the Board of Supervisors due to the existence of wooden poles already in place. The maximum permitted height for light poles shall be 25 feet above ground level, including the luminaire(s). The owner shall be responsible for all costs involved in lighting the Streets from the date of first Dwelling Unit occupancy until such time that the Streets are accepted by the Township. In addition, as a minimum in Single Family subdivisions, appropriate conduit and wiring shall be installed underground, even though standards and lighting fixtures may not be constructed immediately.
  
2. Foot-candle Requirements

Horizontal Foot-candle Requirements for Various Development Areas

<u>Type of Development</u>	<u>Minimum Average Foot-candle Level</u>	<u>Average to Minimum Uniformity Ratios</u>
Shopping and other Commercial Areas	2.0	3.1
Limited Industrial and Recreational Areas	1.0	3.1
Multi-Family, Planned Residential Developments And Eleemosynary-Institutional Uses	0.6 – 0.8	3.1
Residential Streets, Sidewalks, Pedestrian Walkways	0.4	3.1

**NOTE:** Streets with ADT’s of less than two hundred (200) may have a ratio of 6:1.

3. All lighting and accessory equipment shall be standard equipment provided by the Philadelphia Electric Company (PECO) or variations approved by PECO and the Board of Supervisors.

4. All above permitted lighting and all external lighting fixtures appurtenant to a Structure shall be shielded from all residential properties and from all rights-of-way so as to eliminate light glare beyond an angle of thirty-five (35) degrees from a vertical plane.

#### H. Loading

In connection with any Structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided a sufficient number of off-Street loading berths not less than the minimum requirements specified in this section:

1. All required loading berths and trash dumpster locations shall be located on the same Lot as the use to be served. No portion of a vehicle unloading at a loading berth or taking trash from a trash dumpster shall project into any traffic lane. No loading berth or trash dumpster shall be located closer than 150 feet from any R-B Residential District, nor closer than 100 feet to a property line, whichever setback standard is the more stringent. If compliance with these standards is impractical due to Lot size, shape, or function within the development as determined by the Board of Supervisors, the Board of Supervisors may approve a lesser setback.
2. Where a loading area is located within 500 feet of a residential zoning district, the building shall be equipped with a retractable loading dock such that vehicles can use the loading dock in a drive-through manner, without backing-up.
3. No loading facilities shall be constructed between the building setback line and a Street right-of-way line, or within any required Yard areas.
4. A required off-Street loading berth shall be at least fourteen (14) feet in width by at least fifty (50) feet in length, exclusive of aisle and maneuvering space, and shall have vertical clearance of at least sixteen (16) feet. Loading facilities shall not be constructed between the building setback line and a Street Line.
5. Each required off-Street loading berth shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movement, and shall be subject to approval of the Township. They shall have all-weather surfaces to provide safe and convenient access during all seasons.

6. All open off-Street loading berths shall be improved with a compacted macadam base not less than seven (7) inches thick, or equal, surfaces with not less than two (2) inches of asphaltic concrete or some comparable all-weather dustless material.
7. No storage of any kind, nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading berth.
8. Space allocated to any off-Street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-Street parking facilities or portions thereof. Required off-Street parking spaces shall not be used for loading and unloading purposes except during hours when business operations are suspended.

### **SECTION 1813. BED AND BREAKFAST OPERATIONS**

Where permitted, bed and breakfast operations shall adhere to the following regulations, in addition to compliance with applicable state laws. Within this Section, the term “guest facility” shall be interpreted to mean any room (or suite of rooms available only as a single unit) for rental as overnight accommodation within the principal Dwelling or any Building accessory to the principal Dwelling; provided that a guest facility shall not include a kitchen or other area for preparing meals.

- A. Bed and breakfast operations shall be conducted as a Home Occupation. The property upon which the operation is conducted shall be the principal residence of the operator and shall be owned by a resident of the property.
- B. Bed and breakfast operators shall register annually with the Township Zoning Officer to conduct a bed and breakfast operation within the Township.
  1. Registrations shall be accompanied by information sufficient for the Zoning Officer to determine that the proposed bed and breakfast operation complies with all applicable provisions of this Ordinance, all other Township regulations, and state laws.
  2. A record of all registrations shall be kept on file by the Zoning Officer.

3. No registration shall be recorded until the Zoning Officer has determined that the proposed bed and breakfast complies with all applicable provisions of this Ordinance and all other Township regulations. Once such determination has been made, a record of registration shall be issued to the operator.
  4. An annual fee, established by resolution of the Board of Supervisors, may be charged in exchange for the issuance of a record of registration. No fee shall be charged unless a record of registration is issued.
- C. Bed and breakfast operations shall be permitted only in owner-occupied single-Family detached Dwellings, or in existing buildings accessory thereto on the same property.
  - D. No more than two (2) persons not resident upon the property shall be employed by the operator in the Bed and Breakfast operation.
  - E. No bed and breakfast operation shall contain more than ten (10) guest facilities, with accommodations for a maximum of no more than thirty (30) overnight guests at any one time. Operations providing more than ten (10) guest facilities shall be deemed Hotels or Motels and shall be regulated as such.
  - F. Signage shall conform to Article XVII of this Ordinance.
  - G. The property shall comply with all area and bulk standards applicable to the district wherein the bed and breakfast is located; bed and breakfast operations shall not be permitted upon Non-Conforming Lots.
  - H. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each non-resident employee, and one (1) off-Street parking space shall be provided for each guest facility. Such additional parking spaces shall not be located in the Front Yard nor shall they be located within fifty (50) feet of any property line.
  - I. Regulations for Bed and Breakfast Homes

Bed and breakfast operations featuring three (3) or fewer guest facilities shall be classified as a "Bed and Breakfast Home" and shall conform to the requirements of this sub-section.

1. The parking required by §1813(H), above, shall be provided on the Lot where the Bed and Breakfast Home is located and shall be located and designed to be compatible with the character of the surrounding area.

2. The adequacy of the sewage system to handle increased flows and the availability of an appropriate site for a replacement sewage disposal system shall be certified by the Chester County Health Department.
3. The principal use of the property shall remain that of a single-Family Dwelling.
4. No meals shall be served or prepared, except as expressly provided in this sub-section. Breakfast may be served to guests of the establishment. Box lunches may be prepared for guests of the establishment so long as no potentially hazardous foods are included in the box lunch. A light afternoon or evening tea may be served to guests of the establishment so long as no potentially hazardous food other than cream is served. Owners shall comply with all federal, state, and local requirements for the preparation, handling, and serving of food.
5. Any amenities (including but not limited to Swimming Pools and tennis courts) shall be for the sole use of the resident owner and the bed and breakfast guests.
6. The operator shall maintain a current guest register.
7. Proof of annual fire inspection by the Township Fire Marshal shall be available at all times.
8. No more than two (2) adults and two (2) children may occupy a guest facility.

J. Regulations for Bed and Breakfast Inns

Bed and breakfast operations with more than three (3) guest facilities and no more than ten (10) guest facilities shall be classified as a "Bed and Breakfast Inn" and shall comply with the regulations of this sub-section.

1. When located in a residential or agricultural district, Bed and Breakfast Inns with up to six (6) guest facilities or accommodations for up to eighteen (18) guests shall occupy a Lot of no less than five (5) acres and with seven (7) to ten (10) guest facilities or accommodations for more than eighteen (18) guests shall occupy a Lot of no less than twenty (20) acres.

2. When located in a residential district, all guest facilities, including guest parking areas and amenities available for use by guests, shall be located no closer than one hundred (100) feet to any property line.
3. Bed and Breakfast Inns shall comply with all of the regulations stipulated for Bed and Breakfast Homes, as identified in §1813(l) above.
4. No more than two (2) adults and two (2) children may occupy a guest facility.

#### **SECTION 1814. GROUP CARE HOME OPERATIONS**

- A. Group Care Home operators shall register with the Township Zoning Officer to conduct a Group Care Home within the Township.
  1. Registrations shall be accompanied by information sufficient for the Zoning Officer to determine that the proposed Group Care Home operation complies with all applicable provisions of this Ordinance, all other Township regulations, and applicable Pennsylvania codes.
  2. A record of all registrations shall be kept on file by the Zoning Officer.
  3. The registration fee will be established by resolution of the Board of Supervisors.
- B. Group Care Home operations shall be permitted only in single-Family detached Dwellings.
- C. Group Care Homes shall not provide care for more than six (6) residents at any one time, in addition to Custodial Caregivers.
- D. Signage shall conform to Article XVII of this Ordinance.
- E. The property shall comply with all area and bulk standards applicable to the district wherein the Group Care Home is located.
- F. In addition to the off-Street parking spaces required for the residential use of the property, one (1) off-Street parking space shall be provided for each non-resident employee. The parking spaces shall be located and be designed to be compatible with the character of the surrounding area.

- G. The adequacy of the sewage system to handle increased flows and the availability of an appropriate site for a replacement sewage system shall be certified by the Chester County Health Department.
- H. The exterior appearance of the Structure and premises shall be maintained as a residential building. No external Alterations, additions, or changes to the exterior Structure shall be permitted except as required by the Pennsylvania Department of Welfare or for safety reasons as required by any other government agency.
- I. All Group Care Home facilities shall hold a valid registration certificate or license, as appropriate, from the Pennsylvania Department of Public Welfare and shall meet all current Department regulations, including those standards governing indoor space and applicable state and local building and fire safety codes. The Group Care Home will be annually inspected by the Township Fire Marshal for compliance with all safety standards.
- J. There shall be no more than one (1) kitchen or cooking facility. Meals shall be served to occupants and employees only. No separate cooking facilities are permitted for any occupant.
- K. No retail sales shall be permitted on the premises.
- L. Group Care Homes in operation prior to the effective date of this Ordinance shall comply fully with these provisions within one (1) year of the effective date of this Ordinance.

## **SECTION 1815. CHILD DAY CARE FACILITIES**

The purpose of this Section is to provide convenient locations for custodial child care service uses within the Township which are compatible with the surrounding land uses and developments and where the proposed development will comply with necessary site planning considerations so that the security and well-being of the participants are assured. This section shall apply to each Child Day Care Facility use within the Township. The requirements of this section shall apply at such time as any location is used as a Child Day Care Facility.

- A. The following provisions and standards shall apply to all Child Day Care Facilities, as permitted by this Ordinance.
  - 1. Each operator of a Child Day Care facility must register with East Marlborough Township prior to the initiation of such use. The operator

must certify compliance with all aspects of Township requirements as well as Commonwealth of Pennsylvania requirements for child day care facilities.

2. All child day care facilities shall hold a valid registration certificate or license, as appropriate, from the Pennsylvania Department of Public Welfare and meet all current Department regulations, including those standards governing adequate indoor space, accessible outdoor play space, and all applicable state and local building and fire safety codes.
  3. All child day care facilities shall be fully protected by smoke detectors and fire extinguishers and shall be inspected and approved by the Township Fire Marshal prior to the initial use and annually thereafter to ensure that all safety requirements are actively maintained.
  4. Day care facilities in operation prior to the effective date of this Ordinance shall comply fully with all provisions above within one (1) year of the effective date of this Ordinance.
- B. The following provisions and standards shall apply to all Day Care Homes, as permitted by this Ordinance. Day Care Homes may locate in any district indicated, subject to the standards of that particular district for a single-Family residence and the following additional standards, whichever are more restrictive.
1. There shall be at least one (1) additional off-Street parking space provided for each non-resident employee and at least one (1) safe passenger unloading space at least ten (10) feet by twenty (20) feet.
  2. Any Sign shall comply with the standards governing Signs for Home Occupations.
  3. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m. or sunset, whichever occurs earlier.
  4. The operator shall be a resident of the home.
- C. The following provisions and standards shall apply to Child Day Care Centers, where permitted by Conditional Use by this Ordinance.
1. The standards for Child Day Care Centers shall ensure that the Structures and appurtenances shall be architecturally compatible with surrounding Structures. Additional conditions, including Buffers, may be imposed to mitigate any potentially adverse impact relating to the site or

surrounding areas; further, such designs will allow the reversion to compatible permitted uses within the district, should the Child Day Care Center cease to exist for any reason.

2. A land development plan is required for all Child Day Care Centers as part of its application.
3. Safe sight distances and internal circulation patterns are required for both drop-off and pick-up locations. Additionally, at least one (1) safe passenger unloading space measuring at least ten (10) feet by twenty (20) feet shall be provided for each ten (10) children that the center is licensed to accommodate.
4. Each Child Day Care Center shall have at least the minimum play area designated by the Department of Public Welfare located immediately adjacent to the center. Off-site locations should be used only when no other alternatives exist and only under the condition that direct, safe, dedicated pedestrian access is provided. Busing of children to play areas is not permitted.
5. The outdoor play area as regulated by state licensing shall be surrounded by a safety fence or equivalent natural barrier.
6. No portion of the outside play area shall be less than fifty (50) feet from either an existing occupied Dwelling or non-residential uses on adjacent properties.
7. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m. or sunset, whichever occurs earlier.
8. Any Sign shall comply with the regulations applicable to similar uses such as Schools, Churches, etc.
9. The licensed capacity of the Child Day Care Center shall be limited to the Lot Area divided by fifteen hundred (1,500) square feet, unless restricted further by other sections of this Ordinance or state regulations.

## **SECTION 1816. MODIFICATION OF LOT AREA AND WIDTH FOR LOTS UTILIZING ELEVATED SAND MOUNDS**

The Lot Areas and Lot Width requirements otherwise applicable to a proposed use shall be increased by fifty (50) percent for any use for which an elevated sand mound on-site sewage disposable system is utilized.

## **SECTION 1817. MOBILE HOMES**

Mobile Homes shall not be placed on any Lot or otherwise utilized in the Township, except in conformity with the following provisions:

- A. Mobile Homes may be erected either on an individual Lot which conforms to the requirements of the applicable area and bulk regulations for Single Family residences, or within an approved Mobile Home park for which Conditional Use approval has been granted pursuant to Section 602(C).
- B. A Mobile Home may be utilized as a temporary construction or sales office during the period of development of a tract of land on which it is temporarily situated. A Mobile Home so utilized shall be removed upon completion of construction activities on the tract.

## **SECTION 1818. WIRELESS COMMUNICATION FACILITIES**

Wireless Communication Facilities shall comply with the following standards:

- A. Applicability. This article shall not govern the installation of any amateur or citizen band radio, "short wave", and those antenna used exclusively for educational purposes, if the radio facility is operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- B. Micro Facilities shall be permitted Accessory Uses in the MU, LI and C-2 zoning districts.
- C. A Wireless Communication Facility with a Support Structure shall be a permitted Accessory Use in the LI and C-2 zoning districts by Conditional Use.
- D. A Wireless Communication Facility with a Support Structure shall be permitted in all other zoning districts, if the principal use of the property is an educational or

religious use, Hospital, or municipally owned or leased property. Notwithstanding the foregoing, no Wireless Communication Facility with a Support Structure shall be permitted in any Historic District of the Township, nor within 100' of a Scenic Road as identified in the Open Space, Recreation and environmental Resources Plan of 1993, nor within a distance equal to the height of the facility of a Distribution Primary Voltage line of 4KV and above.

- E. A Wireless Communication Facility located on an Attachment Structure or no less than 1,000 feet from the nearest Street right of way or the nearest neighbor's property line is a permitted use in all zoning districts by Conditional Use.
- F. All other uses ancillary to a Wireless Communication Facility, including but not limited to, a business office, maintenance depot, vehicle storage, etc., are prohibited from the Wireless Communication Facility site unless otherwise permitted in the zoning district in which the facility is located.
- G. All applications for the installation of a Wireless Communication Facility shall include a sworn affidavit from a licensed radio frequency engineer that the placement of the Wireless Communication Facility will not interfere with public safety, communications, and the usual and customary transmission or reception of radio, television, or other communication services enjoyed by adjacent residential and nonresidential properties. If measurable interference does result from the installation and use of the facilities, the operation of the facility must cease until the problem is corrected. If the problem is not correctable, the facility must be dismantled and removed from the site.
- H. The Telecommunications Act of 1996 gives the Federal Communications Commission (FCC) the sole power to regulate radio frequency emissions and does not allow the Township to condition or deny on the basis of radio frequency impacts the approval of any Wireless Communication Facilities. Operators of Wireless Communication Facilities shall comply with current American National Standards Institute (ANSI) and Institute of Electrical and Electronics Engineers (IEEE) standards, or other more stringent requirements promulgated by the FCC for safe human exposure to radio frequency electromagnetic fields. The operator of the Wireless Communication Facility shall provide to the Township Secretary copies of the latest FCC information regarding emission standards. The operator shall also submit information on the power intensity of the facility at least annually demonstrating compliance with current FCC standards. Once installed, any technical change that could increase power or output of the facility shall be immediately reported to the Township.
- I. All applications shall include a copy of the operator's current Federal Communications Commission license. The operator shall provide and maintain with the Township the current name, address, and emergency telephone

number of the owner or operator of the Support or Attachment Structure on which the Antenna Array is mounted.

- J. All applications shall be required to include notification to all property owners and occupants of every Lot on the same Street within 500 feet of the Lot in question and of every Lot not on the same Street within 150 feet of said Lot on which the facility is to be located. Notice shall be given at least two weeks prior to issuance of the Zoning Permit, or the Conditional Use hearing. Proof of notification shall be provided to the Township Secretary in the form of Certified Mail receipts.
- K. Special Standards applicable to all Wireless Communication Facilities other than Micro facilities.
1. Setbacks. If a new Support Structure is proposed, the minimum distances between the base of the Support Structure or any guy-wire anchors, and any property line or Street right-of-way shall be the greatest of the following:
    - a. In all Zoning Districts, all Wireless Communication Facilities with Support Structures shall be set back a minimum distance equal to the height of the Wireless Communication Facility with Support Structure.
    - b. Setback requirements can be modified by the Board of Supervisors by Conditional Use if the Board of Supervisors determines that a lesser setback will reduce its visual impact, and safety issues are satisfied.
  2. Height Restrictions. The maximum height of a Wireless Communication Facility with a Support Structure shall be 200 feet. The Applicant shall have the burden of demonstrating to the satisfaction of the Board of Supervisors that the proposed height is the minimum required for the facility to function properly, unless it can be demonstrated that the purpose of any increased height beyond the minimum necessary, is to allow for future co-location of facilities. The height shall be measured from the base pad and include all facilities attached to the Support Structure. In the case of use of an Attachment Structure, the height of the Attached Wireless Communication Facility shall not exceed the existing height of the Attachment Structure by more than 20 feet.
  3. Support Structures shall meet all Federal Aviation Administration (FAA) regulations. No Support Structure shall be artificially lighted except when required by the FAA. All Support Structures must meet ANSI/EIA/TIA-

222F (American National Standards Institute, Electrical Industry Association, Telecommunications Industry Association Tower specification) requirements, and any revisions.

4. Co-location. Facilities shall be co-located, where technically (no substantial impairment to quality of service) and visually desirable. All Wireless Communication Facility owners and operators shall cooperate with other communication providers in co-locating Wireless Communication Facilities in the Township unless there are mechanical, structural or regulatory factors preventing such sharing of facilities. Wireless Communication Facilities shall provide space for police, fire, and ambulance and other governmental agencies' communications needs to the greatest extent feasible.
5. Fencing. A chain link fence shall be provided around the Support Structure or other Wireless Communication Facility, except for Micro Equipment and facilities mounted in Attachment Structures, of eight (8) feet in height.
6. Landscaping. All applications shall include a Landscaping Plan prepared by a licensed landscape architect in the Commonwealth of Pennsylvania, which shall preserve to the greatest extent feasible, existing vegetation on the site. In addition, new plantings shall be provided to minimize the visual effects of the facility.
7. Support Structure Safety. All Structures shall be safe and the surrounding areas shall not be negatively affected by Support Structure failure, falling ice or other debris, or radio frequency interference. All Support Structures shall be fitted with anti-climbing devices as approved by the manufacturers. An annual inspection report regarding the structural safety of the Wireless Communication Facility shall be submitted to the Township. Any faults shall be immediately corrected by the owner. Failure to provide the annual inspection report shall be cause for the Township to provide notice to cease and desist operation of the facility.
8. Stealth design. Wireless Communication Facilities shall be of Stealth design, unless clearly impractical, and must comply with the following standards, relating to aesthetics, placement, materials and colors.
  - a. Attached Wireless Communication Facilities shall be designed and maintained so as to blend in with the existing Structure to the greatest extent feasible.

- b. Wireless Communication Facilities with Support Structure and Equipment Structures shall be designed so as to blend in with the existing surroundings to the greatest extent feasible, including the use of compatible colors and disguised Structures.

L. Maintenance.

1. Owners shall employ ordinary and reasonable care in the installation and maintenance of Wireless Communication Facilities. They shall maintain nothing less than the best available technology for preventing failures, and accidents, which are likely to cause damage, injury, or nuisance to the public.
2. In the event the use of a Wireless Communication Facility is discontinued, the owner shall remove the facility within 90 days. If the facility is not removed within 90 days, the Township may remove it at the owner's expense.
3. The Township and its agents shall have authority to enter onto the property upon which a Wireless Communication Facility is located at any time, upon reasonable notice to the operator, for any purpose associated with the use of the property.

M. Wireless Communication Facilities Application Procedures

1. Attached Micro Facilities may be erected on any Attachment Structure upon issuance of a Zoning Permit. An application for a zoning Permit shall include, in addition to the standard permit application information, the following additional information:
  - a. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the Micro Facility is proposed to be situated. If the Applicant is not the owner of the parcel of land, or of the Attachment Structure, the written authorization of the owner shall be evidenced in the application.
  - b. The parcel number and address of the parcel of land upon which the Micro Facility is to be located.
  - c. A graphic illustration or description including proposed colors, and materials, of the Stealth design, which shall be subject to the approval of the Board of Supervisors.

- N. Wireless Communication Facilities other than Attached Micro Facilities, shall include, the following information:
1. A plan drawn to scale along with a scaled elevation view and other supporting drawings, calculations and documentation showing the location and dimensions of the Wireless Communication Facility and all improvements associated therewith, including information concerning the Attachment Structure specifications, Antenna Array, Equipment Facility, landscaping, fencing and relevant existing site condition information including topography, adjacent uses within 200' of the site and existing vegetation that will be effected by the facility.
  2. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the Micro facility is proposed to be situated. If the Applicant is not the owner of the parcel of land, or of the Attachment Structure, the written authorization of the owner shall be evidenced in the application.
  3. The parcel number and address of the parcel of land upon which the facility is to be located.
  4. A description and illustration of the Stealth design, which shall be subject to the approval of the Board of Supervisors. In order to assist the Township in evaluating visual impact, the Applicant shall submit with its application, color photo simulations showing the proposed site of the Wireless Communication Facility with a photo-realistic representation of the proposed facility as it would appear viewed from the closest residential property, adjacent roadways, and additional locations, as requested by the Township.
  5. Written technical evidence from a qualified licensed professional engineer in the Commonwealth of Pennsylvania that the proposed facility does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, electrical lines, natural gas, or corrosive or other dangerous chemicals.
  6. A report shall accompany all applications for Wireless Communication Facilities with Support Structure prepared by a qualified licensed professional engineer in the Commonwealth of Pennsylvania, certifying as to the proper design of the foundation and Support Structure in accordance with all applicable requirements.

- O. Standards for Conditional Use Approval. In addition to the requirements of Section 2008 and 2109, the following additional provisions must be met for the grant of a Conditional Use approval:
1. Using technological evidence, demonstrate that the Wireless Communication Facility must be located where proposed in order to satisfy its function in the Applicant's grid system.
  2. Demonstrate that a good faith effort was made to mount the Antenna Array on an existing Structure. The Applicant shall submit proof that it contacted the owners of Structures over 35 feet in height within a ¼ mile radius of the proposed site, asked for permission to install the facility on those Structures, offered market compensation to such owners, and was denied. Such adjacent owners could include, but are not limited to, Churches, water or building towers, existing buildings, Support Structures of other cellular communication companies, other communication towers, or other suitable structurally sound structures.
  3. Provide evidence satisfactory to the Township that the Stealth design minimizes its visual impact and blends with its surroundings.
  4. A site plan shall be required for all Wireless Communication Facilities showing the Antenna Array, Support Structure, Equipment Facility, building, fencing, Buffering, access, and such other information as the Township may require to illustrate the relationship between the proposed facility and adjacent Structures and property lines.
  5. The owner of any new Support Structure shall be required to accommodate other future users on the Support Structure provided the Structure is capable of supporting the additional facilities, the prospective user offers fair market rent, and the operation of the additional facilities will not interfere with other communications facilities.
- P. Fees. An Applicant seeking the approval of a Wireless Communication Facility shall establish an escrow deposit with the Township in the amount of \$5,000, out of which the Township will make payment of the fees and charges of those consultants and professional advisors deemed necessary for the processing of the Application, or for other expenses reasonably related to the application. The Applicant shall also provide a financial security in form and amount satisfactory to the Township Solicitor in an amount sufficient to dismantle and remove all Structures from the property prior to the issuance of the permit for construction of the facility. The Applicant shall be requested to replenish the escrow as required, if sufficient funds are not available to make such payments.

1. The Township Manager is authorized to negotiate the terms of a lease agreement and the appropriate rental for the use of Township owned lands for Wireless Communication Facilities.

## **SECTION 1819. HELIPORTS AND HELISTOPS**

Heliports and helistops and their auxiliary facilities such as parking, waiting rooms, fueling facilities, and maintenance equipment areas, as either a principal use or as an Accessory Use, are prohibited.

## **SECTION 1820. WETLAND PROTECTION ZONE**

### **A. Scope; Applicability**

This Section shall apply to all Zoning Districts within the Township.

### **B. Definitions**

As used in this Ordinance, the following terms shall have the meanings given to them below.

#### **RIPARIAN BUFFER**

An area of trees or other vegetation adjacent to a Watercourse or Wetland that forms a transition area between the aquatic and terrestrial environment. The Riparian Buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Section, the Riparian Buffer shall be divided into two Zones:

#### **INNER RIPARIAN BUFFER ZONE**

This zone shall begin at each edge of any identified Watercourse or Wetland and shall occupy a margin of land on each side, each with a minimum width of thirty-five (35) feet from any Watercourse or twenty-five (25) feet from any Wetland, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the nearest edge of the water at the top of the defined bank of a Watercourse or the applicable edge of a Wetland, in each case, as reviewed and approved by the Township Engineer. Where very steep slopes (+20%) are located within and extend beyond such margin, the Inner Riparian Buffer Zone shall extend to include the entirety of the very steep slopes up to a

maximum dimension of one hundred (100) feet from the subject Watercourse or seventy five (75) feet from the subject Wetland, whichever is greater.

#### OUTER RIPARIAN BUFFER

This zone begins at the outer edge and on each side of any area delineated within the Inner Riparian Buffer Zone and occupies any additional area, if any, within one hundred (100) feet of the nearest edge of the water at the top of the defined bank of any Watercourse or seventy five (75) feet from the nearest edge of the Wetlands, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the nearest edge of the water at the top of the defined bank of a Watercourse or the applicable edge of a Wetland, in each case, as reviewed and approved by the Township Engineer.

#### WATERCOURSE

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

### C. Wetlands & Riparian Buffer Protection Standards

#### 1. Wetlands

No Structure shall be constructed within any Wetlands area. Except in connection with those uses or activities listed in a. and b. below, (i) no fill or Impervious Cover shall be placed in any Wetlands area and (ii) no piping or diversion of water and no Timber Harvesting, Tree Cutting, regrading, construction, alteration or other land disturbance shall be permitted within any Wetlands area:

- a. Activities that may only be undertaken in Wetlands subject to restrictions under State or Federal laws and regulations (i.e. permitted Wetlands Crossing), provided that such activities are conducted in compliance with all applicable laws and regulations and that all required permits have been obtained and are complied with; or
- b. Access driveway or roadway that satisfies the requirements of a. above, if applicable, and where there is no alternative location to access a Lot other than over the Wetlands, in which event the disturbance to the Wetlands shall be limited to that which is necessary for such access and shall be in a location that the Township determines to be most desirable from an environmental and ecological standpoint.

## 2. Inner Riparian Buffer Zone

No Structure shall be constructed within any Inner Riparian Buffer Zone. Except in connection with those uses or activities listed in a. through g. below, (i) no fill or Impervious Cover shall be placed in any Inner Riparian Buffer Zone and (ii) no Timber Harvesting, Tree Cutting, regrading, construction, alteration or other land disturbance shall be permitted within any Inner Riparian Buffer Zone:

- a. Activities that may only be undertaken in an area included in a Riparian Buffer subject to restrictions under State or Federal laws and regulations (i.e. permitted stream crossing), provided that such activities are in compliance with all applicable laws and regulations and that all required permits have been obtained and are complied with;
- b. Access driveway or roadway that satisfies the requirements of a. above, if applicable, and where there is no alternative location to access a Lot other than through a Riparian Buffer, in which event the disturbance to the Riparian Buffer shall be limited to that which is necessary for such access and shall be in a location that the Township determines to be most desirable from an environmental and ecological standpoint;
- c. Provision for unpaved trail and trail access;
- d. Selective removal of hazardous or invasive alien vegetative species;
- e. Vegetation management in accordance with an approved landscape plan or open space management plan;
- f. A soil or water conservation project approved by the Chester County Conservation District; or
- g. Fencing for pastures used for grazing of Livestock and other animals.

## 3. Outer Riparian Buffer Zone

Except in connection with those uses or activities permitted in the Inner Riparian Buffer Zone, no more than twenty (20) percent of the aggregate area included in any Outer Riparian Buffer Zone shall be disturbed or subjected to any filling,

Impervious Cover, Timber Harvesting, Tree Cutting, regrading, construction, alteration or other land disturbance.

4. Wetlands and Riparian Buffer Zones
  - a. No clear-cutting of timber shall be permitted within any Wetlands area or any Riparian Buffer.
  - b. All Wetlands, Watercourses, and Riparian Buffers shall be located and shown on sketch, tentative, preliminary and final plans submitted for subdivisions, land development or building permits. If there are no Wetlands and/or Riparian Buffers present on the site, a note shall be provided on the plans to that effect.
  - c. Any Applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in Wetlands, Watercourses, or Riparian Buffers shall provide the Township with proof that the appropriate State and Federal regulatory agencies have been contacted to determine the applicability of State and Federal laws and regulations. The Applicant shall concurrently provide to the Township a copy of any application and any other related information required to be submitted to any such regulatory agency pursuant to any such laws and regulations.

## **SECTION 1821. FORESTRY AND TIMBER HARVESTING**

### **A. Intent**

The forestry and timber harvesting regulations contained in this section are intended to accomplish the following goals:

1. Promote good forest stewardship.
2. Protect the rights of adjoining property owners.
3. Minimize the potential for adverse environmental impacts caused by a timber harvesting operation.
4. As woodlands, tree clusters and specimen trees perform important ecological functions, including the continuation of species diversity, provision of habitat for wildlife, maintenance of ground and surface water conditions, and enhancement of views and aesthetic conditions

within the Township, these regulations are designed to more effectively preserve such resources within the Township.

B. Scope; Applicability.

This Section shall apply to all Forestry and Timber Harvesting Cutting within the Township.

C. Definitions.

As used in this Ordinance, the following terms shall have the meanings given to them below:

**CHRISTMAS TREES**

An ornamental evergreen trees at least six (6) years old that are grown on managed plantations as a farm crop and sold as cut or B&B (balled and burlap) trees specifically for the Christmas season.

**FELLING**

The act of cutting a standard tree so that it falls to the ground.

**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. Christmas Trees are excluded for the purposes of this Ordinance.

**LANDING**

A place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

**LITTER**

Discarded items not naturally occurring on the site such as tires, oil cans, equipment parts, and other rubbish.

**LIP**

To cut tops and slash into smaller pieces to allow the material to settle close to the ground.

**OPERATOR**

An individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.

**LANDOWNER**

An individual, partnership, company, firm, association or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.

**SKIDDING**

Dragging trees on the ground from the stump to the landing by any means.

**SLASH**

Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

**SPECIMEN TREE**

A tree specifically worthy of conservation because of species, size, shape, form, location, age, historical importance or other significant characteristic. Specimen Trees are any trees located within the Township with a diameter of 36" or greater and any trees identified in the August 8, 1993 East Marlborough "Open Space, Recreation and Environmental Resources Plan" on the Biotic Resources Map (Map 4) as "Locally Important Vegetation," said Map being incorporated herein by reference.

**STAND**

Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

**STREAM**

Any natural or artificial channel of conveyance for surface water with an annual or intermitted flow within a defined bed and banks.

**TIMBER HARVESTING (TREE HARVESTING)**

The process of cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products, where the value of the trees, logs or other timber products removed exceeds One Thousand (\$1,000) Dollars.

**TOP**

The upper portion of a felled tree that is unmerchantable because of small size, taper, or defect.

**TREE CLUSTER**

A group or row of trees insufficient in size to constitute a woodland area.

**TREE CUTTING**

The felling of more than three trees with a DBH of 6" or greater within a concentrated area.

**WOODED LOT**

Any lot having more than one living tree with a caliper of 6" DBH or greater per 1,500 square feet of lot area.

**WOODLAND AREA**

An area of at least 4,000 square feet characterized by trees growing in close proximity to each other, with the average caliper of such trees being not less than 4" DBH.

**D. Permit Required**

It shall be unlawful for any person to engage in any Forestry or Timber Harvesting on any Lot in the Township without first submitting a forest management plan and securing a permit from the Township, provided however that no permit shall be required for the annual removal of up to four (4) trees on any one acre of a Lot.

**E. Permit Application Procedure**

1. Any person proposing to engage in any Forestry or Timber Harvesting on any Lot in the Township shall apply for a permit by written application on a form available from the Township. Such permit shall require the Applicant's agreement to comply with the regulations established in this Section. Failure of the Applicant to abide by such regulations shall be a violation of the provisions of this Chapter.
2. The application for permit shall be accompanied by the following materials and/or documents:
  - a. Any filing fee imposed by resolution of the Board of Supervisors.
  - b. A forest management plan of the property where the proposed Forestry or Timber Harvesting activity shall occur, which includes the following:
    - i. An identification of the concerned property, the legal owners of the property, the mailing address(es) of the owners and phone number(s) at which they can be reached during normal business hours.
    - ii. The property's boundaries as well as the specific areas of the site on which the forestry work is to be performed and describing existing and proposed improvements and

features of the property and the area surrounding the site of the work, including topography, existing vegetation, watercourses, man-made features, the affected watersheds and other natural features.

- iii. A topographical survey of the site depicting topographic features, both existing and proposed, at a suitable scale of no less than one inch equals 50 feet and contour intervals of no more than two feet, prepared by a registered surveyor or registered engineer, including a boundary line survey, the location and description of vegetative cover, soil types and other pertinent existing natural or man-made features.
- iv. A description, submitted by an approved forester, of the planned Forestry or Timber Harvesting operation as well as a description of the planned replanting of the Lot. Where no replanting is planned, a statement from the approved forester describing the reasons why, in his opinion, the characteristics of the Lot and vegetation situate thereon make natural regeneration appropriate or why such replanting is not otherwise necessary.
- v. An analysis by the approved forester of the soil erosion likely to occur as a result of the planned Forestry, Timber Harvesting, or Logging operation and recommended counter-erosion measures.
- vi. A description of the counter-erosion measures that will be utilized by the Landowners.
- vii. A drawing showing the design, construction, maintenance, and retirement of the access system, including haul roads, skid trails and landings.
- viii. The location and description of the protective fencing for areas which will not be harvested.
- ix. A computation of the basal area/acre for the property.
- x. A diagram of the proposed routes for vehicles carrying equipment, supplies or forestry products which travel to and from the site on public roads within the Township.

- xi. A table of all equipment and their weights that will be transported to the site on public roads for use in the Forestry, Timber Harvesting, Tree Harvesting or Logging Operation.
      - c. A soil erosion and sediment control plan in compliance with the Township's regulations and requirements.
      - d. A stormwater management plan.
      - e. Copies of any permits or licenses required by federal or Commonwealth laws and regulations.
  3. The requirements of this Section shall be in addition to rather than in substitution of those provisions of the Township Subdivision and Land Development Ordinance and of the Township Stormwater Management and Land Disturbance Ordinance relating to storm and surface drainage and stormwater management, grading and erosion control and stormwater management criteria. The Township Engineer may, in his discretion, authorize variances from strict adherence to the permit application provisions of this Section when a subdivision or land development application is being reviewed by the Township under the Subdivision and Land Development Ordinance and when, in such review procedure, the Township Engineer determines that the data required to be submitted in an application for a permit hereunder has been included in the subdivision or land development plans and such plans are supported by documentation in substantial compliance with the requirements of this Section. In such cases, the subdivider or land developer shall not be obligated to make application for a permit hereunder.
  4. A separate application shall be required for each permit. Three copies of all plan documents referred to in this Section shall be submitted with each application, one of which, at the discretion of the Township Engineer, shall be submitted to the Chester County Conservation District for review and comment.

F. Forestry Regulations

The following regulations shall apply to all Forestry and Timber Harvesting operations in the Township.

1. Felling or Skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department

of Transportation, whichever is responsible for maintenance of the public road.

2. No Tops or Slash shall be left within twenty-five (25) feet of any public road.
3. All Tops and Slash between twenty-five (25) and fifty (50) feet from a public road or private road providing access to adjoining residential property or within fifty (50) feet of adjoining residential property shall be lopped to a maximum height of four (4) feet above the surface of the ground.
4. No Tops or Slash shall be left on or across the boundary of any property adjoining the operation.
5. Litter resulting from the Forestry, Timber Harvesting, and Tree Cutting operation shall be removed from the property at least once a week.
6. All holes created in the course of any tree harvesting operation shall be filled to grade with soil.
7. The total number of trees over any four-year period may not exceed 50% of the total basal area per acre in interior areas other than those described in paragraph 8 below.
8. In areas within 50 feet of Lot boundaries, the total number of trees harvested over any four-year period may not exceed 40% of the total basal area per acre in such area. Moreover, harvesting in these boundary areas may not be undertaken in such a manner as to concentrate most or all of the tree harvesting in portions of such boundary areas, if the result thereof would be the harvesting of more than 40% of the trees in such portions.
9. The requirements of Section 1822 (“Conservation of Trees and Natural Features”) shall apply to any permissible Forestry or Timber Harvesting operation, except where any such requirements are expressly contrary to the provisions of this Section 1821.

G. Inspection and permit fees and permit approval

1. The Board of Supervisors shall by resolution establish a schedule of fees for all permit applications required by this Section. The required fee shall be submitted with the application which shall not be considered for approval until the application fee is paid.

2. The Township's consulting engineer shall review the Applicant's permit application, together with all plans, surveys, schedules, design criteria and other documents submitted or required to be submitted as part of the permit application procedure, together with any and all amendments thereto, and shall prepare a report of his findings and recommendations with respect to same for the Township as he shall determine necessary prior to the issuance of any permit or permits. The cost of all such plan review and inspections shall be paid for by the Applicant.
3. To ensure payment of all review and inspection fees, at the time of application, the Applicant shall deposit with the Township a sum sufficient to cover the costs of such plan review, together with the cost of any inspections by the Township Engineer. The Board of Supervisors may establish a schedule of necessary deposits in conjunction with any application. Payments for the cost of all plan reviews and inspections over the amount of deposit at any time shall be made by the Applicant within 30 days of billing by the Township. The cost of all plan reviews and inspections made by the Township Engineer shall be at the rate regularly billed to the Township by such Engineer.
4. If the Applicant has paid a fee under any other Township Ordinance which is applicable to the requirements of this Chapter, such as the Subdivision and Land Development Ordinance, the Township may waive any and all of the fees under this Chapter as it determines to be equitable.
5. The Township Engineer shall approve and issue all permits in letter form, and no work shall commence without the issuance of such approval.

H. Revocation of suspension of permit

Any permit issued under this Section may be revoked or suspended by the Board of Supervisors of the Township, after notice to the permit holder for:

1. Failure to comply with the terms of this Section.
2. A violation of any condition of the permit.
3. Violation of any provision of this Chapter or any other applicable law, Ordinance, rule or regulation relating to the Forestry or Timber Harvesting operation.

4. Existence of any condition on the property or the doing of any act which constitutes or creates a nuisance, hazard or endangers human life or the property of others.

I. Responsibility for road maintenance and repair; road bonding.

The Landowner and the Operator shall be responsible for repairing any damage to Township roads caused by traffic associated with a Forestry or Timber Harvesting operation. Pursuant to 67 Pennsylvania Code, Chapter 189, the Landowner or Operator shall furnish a bond in an amount determined by the Township Engineer to guarantee the repair of such damages.

J. Inspections/Remedies.

The Township may go upon the property where any Forestry or Timber Harvesting operation is occurring to determine if the requirements of this Section and of the permit, including conditions thereof, or to the plans and specifications submitted with the permit application, including modifications thereof, or to the approved runoff and erosion control plan, are being followed. If the Township determines that the Landowner or Operator are not complying with any of the above, the Township shall send a written notice to the permittee, which notice shall set forth the nature of corrections required and the time within which corrections shall be made. If the permittee fails to comply with the notice in the time specified, the permittee shall be considered in violation of this Section, in which case the Township is entitled to seek all appropriate remedies, including enforcement procedures.

K. Relation to Stormwater Management and Land Disturbance Ordinance

In addition to the requirements of this Section 1821, all Logging and Tree Cutting operations shall comply with the requirements set forth in the Stormwater Management and Land Disturbance Ordinance.

L. Relation to Subdivision and Land Development Ordinance (Chapter 103)

Where Felling or Tree Cutting activities are proposed or contemplated to be conducted in conjunction with or in anticipation of an existing or future subdivision or land development, regulated under the provisions of this Ordinance or the Township Subdivision and Land Development Ordinance, all such activities shall conform with the requirements of Section 1822 and, if applicable, Section 1820 of this Ordinance and the requirements of the Subdivision and Land Development Ordinance.

**SECTION 1822 CONSERVATION OF TREES AND NATURAL FEATURES****A. Scope; Applicability**

This Section shall apply to all Zoning Districts within the Township.

**B. Specimen Trees**

1. All Specimen Trees shall be surveyed and located and shown by size and type on sketch, tentative, preliminary, and final plans submitted for subdivision, land development, or building permits. If there are no Specimen Trees present on the site, a note shall be provided on the plans to that effect.
2. No Specimen Tree shall be cut down, damaged or destroyed, except as provided in Section 1822(B)3 below. To the contrary, all Specimen Trees shall be preserved to the maximum extent feasible.
3. A Landowner shall be permitted to remove all or a portion of a Specimen Tree upon presentation of evidence that conclusively proves to the Township in its sole discretion that such removal is necessary and appropriate due to the existence of disease, rot or other damage to the Specimen Tree or due to a serious threat to public health or safety.
4. In the event that a property owner proposes any earth disturbance activities or construction in proximity of a Specimen Tree, (i) no such earth disturbance or construction shall occur within the dripline of the Specimen Tree, and (ii) applicable precautions set forth in Section 1822(C)4 below shall be observed, whether or not such activities are in conjunction with a subdivision or land development
5. In the event a Specimen Tree is cut down, damaged or disturbed in violation of this Section 1822, the applicable Landowner shall be required, at the Landowner's sole cost and expense, to take all necessary and appropriate steps to restore the Specimen Tree to its condition prior to any such damage or disturbance, and, if such restoration is not possible, to replace such Specimen Tree and/or take such other reasonable remedial action that the Board of Supervisors in its discretion determines to be necessary or appropriate to ameliorate the loss of the Specimen Tree. The replacement shall be at a rate of three (3) trees of no less than 4" caliper (measured at a height of 4½' from the ground) for each Specimen Tree removed, with one (1) additional replacement tree

for each 12" of caliper (or fraction thereof) by which the caliper of such removed Specimen Tree exceeds 36". The replacement trees shall be deemed a Specimen Tree for purposes of this Ordinance, and the area within the dripline of such replacement tree shall be deemed to include the greater of the area within the dripline of the Specimen Tree at the time of its removal or the outer dripline of the replacement trees. **[Amended by Ord. No. 2015-04]**

C. Development and Forestry Regulations

1. Any subdivision or development shall be designed and programmed so as to minimize earthmoving, erosion, tree clearance, and the destruction of natural amenities. All existing Specimen Trees and Stands of Trees shall be plotted on sketch, tentative, preliminary, and final plan submissions. **[Amended by Ord. No. 2015-04]**
2. No portions of a Stand of Trees (excluding Nursery stock) shall be removed unless (a) clearly necessary in the discretion of the Board of Supervisors for effectuation of a proposed Development or (b) in accordance with the Forestry and Timber Harvesting Regulations of §1821 of this Ordinance. The burden of proof for this necessity shall rest with the Applicant. Developers shall make all reasonable efforts to harmonize their plans with the preservation of existing trees. The Planning Commission will satisfy itself of this by on-site inspection before any trees are removed. **[Amended by Ord. No. 2015-04]**
3. When effectuation of a proposed subdivision or development, or effectuation of a permissible Forestry or Timber Harvesting Operation necessitates the clearing of trees or portion of tree masses, the property owner shall be guided by the following criteria in selecting trees and ornamental for retention or clearing.
  - a. Aesthetic values. Including Autumn coloration, type of flowers or fruit, back and crown characteristics, and amount of die-back present.
  - b. Susceptibility of tree to insect and disease attack and to air pollution.
  - c. Species longevity.
  - d. Wind firmness and characteristics of soil to hold trees.

- e. Wildlife values; e.g., oak, hickory, pine, walnut and dogwood have high food value.
  - f. Comfort to surroundings: e.g., hardwoods reduce summer temperatures more effectively than pines or cedars.
  - g. Existence of disease, rot or other damage to the tree.
  - h. Protection of buildings. Dead and large limbs hanging over a building should be removed.
  - i. The size of the tree at maturity.
4. Property owners shall exercise care to protect remaining trees from damage during construction. All trees, tree masses and their associated vegetation layers mature trees and other vegetation (other than invasive plants such as poison ivy, multiflora rose, etc.) within twenty-five (25) feet of a building site, parking area, stormwater management system or other proposed improvement, construction or earth disturbance related thereto shall be considered within a Tree Protection Zone and protected from damage during construction activities with approved fencing, or other barrier, to the limits of a tree protection zone. During construction, the following procedures shall be followed in order to protect remaining trees:
- a. The limits of tree protection fencing shall be clearly delineated on the Soil Erosion and Sedimentation Control plans. Its installation, prior to earth movement, and removal, following construction activities, shall be listed in the sequence on construction. Details noting placement and materials shall be provided on the plans.
  - b. There shall be no encroachment and/or compaction of soil and roots within the tree protection zone by excavation or trenching, change of grade, storage of materials, soil, debris or vehicles. In addition, there shall be no storage of toxic materials, including petroleum-based products, within seventy-five (75) feet of a tree protection zone.
  - c. Trees shall not be used for roping, cables, signs or fencing. Nails and spikes shall not be driven into trees.
  - d. Tree protection zone fencing is subject to periodic monitoring by the Township. Any downed fencing shall be replaced immediately.

- e. Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
- f. Roots from trees within the tree protection zone, which must be trimmed as a result of earth disturbance, shall be cut in accordance with approved professional pruning techniques. The cut shall be aligned radially to the tree. This methods reduces the lateral movement of the remaining roots, reducing the possibility of damage to the intertwined roots of surrounding trees and other vegetation. Within four hours of any severance of roots, all roots that have been exposed and/or damaged shall be trimmed cleanly and covered temporarily with peat moss, moist burlap or biodegradable materials to keeps them moist and protected from disease until permanent cover is installed. Permanent cover shall be installed within 72 hours of the initial severance of roots.
- g. Tree Stumps, which are located within ten (10) feet of a tree protection zone, shall be removed by means of a stump grinder or similar device which will minimize the effect of existing, intertwined roots within a tree protection zone. A stump shall be ground and removed to a point at least six inches below ground level.
- h. Trees that are to be removed shall not be felled, pushed or pulled into a tree protection zone.
- i. Tree limbs damaged during construction shall be sawed in accordance with approved profession pruning techniques.

## **SECTION 1823 FENCE AND WALL REGULATIONS**

### **A. Scope; Applicability**

This Section shall apply to all zoning districts within the Township.

### **B. Regulations**

- 1. No fence (other than a fence erected to contain Livestock) or wall over four (4) feet in height shall be erected, installed, or constructed, except in

compliance with all requirements applicable to construction of a Structure.

2. For Lots in the AP Agricultural Preservation and RB Residential districts and residential Lots in all other zoning districts, (a) the maximum height of a fence, wall or similar Structure that encloses an area of less than five (5) acres shall be seven (7) feet and (b) the maximum height of any other fence, wall or similar Structure shall be five (5) feet.
3. Fences erected, installed, or constructed in the front yard of any residential Lot shall have a ratio of open to solid area of at least two (2) to one (1).
4. To the extent that any side of a fence is more finished than the other side of that fence, the more finished side of the fence must face the abutting property, whether public or private.
5. No fence or wall shall be erected, installed, or constructed which obstructs sight distance at Street intersections or at the point where any driveway intersects a Street.
6. All Existing fences and walls which do not conform to the requirements of this §1823 shall be nonconforming and shall be made to conform as follows:
  - a. Once a fence or wall is removed voluntarily or through neglect, the replacement wall or fence must comply with all the provisions of this §1823.
  - b. Any repair done or required to be done to more than 50% of the overall linear feet of the fence or wall will require the entire fence or wall to comply with all the provisions of this §1823.
  - c. Any fence or wall which in the judgment of the Zoning Officer is dilapidated, unsafe, dangerous and/or a menace to the health, safety or general welfare of the people of East Marlborough Township shall be made to comply with all the provisions of this §1823.

## SECTION 1824 ALTERNATIVE ENERGY SYSTEM REGULATIONS

### A. Purposes

It is the purpose of this Section to promote the safe, effective and efficient use of solar energy, wind energy and geothermal energy installed to reduce on-site consumption of utility-supplied energy as an accessory use for the principal use of the property whereon said system is to be located while protecting health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A water energy system shall be permitted as an accessory use by right. A solar energy system or a wind energy system shall be permitted as an accessory use and shall require approval as a special exception by the Zoning Hearing Board. Such systems are, therefore, Accessory Structures designed to provide energy primarily for “on-site” use. The standards set forth hereinbelow shall be applicable to solar energy systems and wind energy systems, as uses permitted by special exception, in order to curtail any potential nuisance attributes of such systems and to insure that such systems do not pose risks to health, safety and welfare. For purposes of this Ordinance, the sale of any excess power from an accessory system shall be limited, so that in no event shall an energy system generate more energy for sale than the amount which is otherwise necessary to satisfy the need for electricity for the principal use of the property to which the facility is accessory.

Wind or solar energy systems as principal uses are not permitted in the Township, as they are incompatible with the status of the Township as predominantly residential and agricultural.

### B. General Regulations

1. All solar energy systems and wind energy systems shall conform to the following requirements:
  - a. The party applying for the grant of a special exception or a building permit to install a solar energy system or a wind energy systems must be either the owner of the lot on which such system is proposed to be installed or a tenant holding a valid leasehold interest in such lot; provided that, if the applicant is a tenant, the application must be accompanied by a written confirmation from the owner of the lot that the owner approves of such installation.
  - b. An application to install a solar energy system or a wind energy system proposed to be connected to the utility grid shall include

written authorization from the local utility company acknowledging and approving such connection.

- c. The design and installation of solar energy systems and wind energy systems shall conform to applicable industry standards, including those of the US Department of Energy, American National Standards Institute (ANSI), Underwriters Laboratories (UL), International Standards Organization (ISO) and the American Society for Testing and Materials (ASTM), as applicable, and shall comply with applicable building code and fire and safety requirements, including with respect to electrical wiring, and all applicable Township ordinances and codes.
- d. As part of an application for special exception, the applicant shall submit manufacturer's design specifications and certificates of design compliance obtained by the equipment manufacturer from a certifying organization, including in the case of a wind energy system, any small wind certification program recognized by the American Wind Energy Association (AWEA).
- e. Building permit applications for a solar energy system or wind energy system shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electrical Code.
- f. No solar energy system or wind energy system shall be constructed until a special exception has been granted and a building permit has been approved and issued.
- g. All power transmission lines from a solar energy system or a wind energy system to any building or other structure shall be located underground; no aerial wiring system shall be employed in transmitting energy generated by a solar energy system or a wind energy system. There shall be no exposed wiring.
- h. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- i. Any solar energy system or wind energy system shall display appropriate notice of any risk of electrical shock, such as "Danger High Voltage" or "Caution – Electrical Shock Hazard".

- j. A solar energy system or a wind energy system shall not be used to display advertising, commercial markings, messages, signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials. The manufacturer's or installer's identification and any required or appropriate warning signs and placards may be displayed provided they comply with all applicable sign regulations.
- k. Any solar energy system or wind energy system proposed for an historic district in the Township shall be subject to Article XII (Historic District) of this Ordinance.

C. Solar Energy Systems

- 1. Rooftop mounted solar arrays shall be permitted by special exception in any zoning district, in accordance with the following standards:
  - a. The solar panels shall not be located so as to exceed a height of 3 feet above the roof areas to which they are mounted.
  - b. No portion of a rooftop solar array attached to a pitched roof shall extend above the ridge line of the pitched roof, and all solar panels shall be setback at least 3 feet from the roof edge.
  - c. No portion of a rooftop solar array located within an historic district of the Township shall be visible from the adjacent street(s) upon which the property has frontage.
  - d. Solar panels shall not exceed the building height limitation applicable to the type of building on which the solar panels are mounted for the zoning district within which the principal building is located.
  - e. Solar panels shall be permitted as ground arrays by special exception in any zoning district in accordance with the following standards:
    - f. All ground arrays and all associated equipment shall comply with the setback requirements for accessory buildings in the applicable zoning district regulations, plus an additional setback of 10 feet from a side or rear property line. Ground arrays shall not be permitted in a front yard area, between the front façade of the principal building and the adjacent street line, unless the front façade of the principal building is a distance of at least 500 feet

from the adjacent street line, in which case, all ground arrays and all associated equipment shall be set back from the adjacent street line by no less than 400 feet.

- g. Ground arrays shall not exceed a height of 15 feet at the highest point.
  - h. The entire surface of any ground array, regardless of the mounted angle, shall be calculated as part of the overall lot coverage. Of the allowable lot coverage, the surface area of a ground array shall not exceed the lesser of (i) two (2) percent of the allowable lot coverage, or (ii) 360 square feet.
  - i. All associated equipment and any portion of the ground array not facing the sun shall be screened from view from adjacent street(s) upon which the property has frontage and from adjacent properties; provided that no ground array panels or associated equipment shall be located within an historic district of the Township, except for a ground array placed and entirely screened so that it is not visible from any adjacent street(s). The screening shall consist of shrubbery, trees or other plant material or fencing that meet the requirements of the Ordinance.
2. All rooftop mounted and ground mounted solar energy systems shall also conform to the following additional requirements:
- a. As an integral part of the Applicant's burden of proof in the special exception proceedings, the Applicant shall demonstrate that the solar energy systems shall be designed and located in order to prevent reflective glare or concentrated solar radiation from reaching adjacent properties or streets.

#### D. Wind Energy Systems

- 1. Wind energy systems shall be permitted by special exception in any zoning district as Accessory Structures, subject to the following additional requirements:
  - a. A minimum lot size of two (2) acres shall be provided.
  - b. All wind energy systems shall be set back from all property lines and from all above-ground utility lines a distance equal to the greater of (i) ten feet plus 100% of the height of the structure measured from the base of the pole to the height of the blade at

- its highest point, or, if higher, the highest point of the wind energy system, or (ii) the applicable yard setback requirements for principal buildings, plus 10 feet, measured to the closest point of the foundation.
- c. Wind energy systems shall not be permitted in a front yard area, between the front façade of the principal building and the adjacent street line, unless the front façade of the principal building is a distance of at least 500 feet from the adjacent street line, in which case, all ground arrays and all associated equipment shall be set back from the adjacent street line by no less than 400 feet.
  - d. Wind turbines shall not exceed a height of 75 feet, measured from the base of the pole to the height of the blade at its highest point, or if higher, the highest point of the wind energy system.
  - e. No more than one wind turbine shall be permitted per property; provided that for a property of 25 acres or more, the number of wind turbines permitted on the property shall be equal to one for every 25 acres.
2. Noise. Wind energy systems shall not generate noise levels, measured at any property line, which would exceed the lesser of: (i) 3 decibels above pre-existing ambient noise levels; or (ii) 40 decibels. The applicant shall conduct an ambient noise test to demonstrate compliance with these standards and shall submit proof of compliance with such standards to the Zoning Hearing Board at the special exception hearing. The Township shall maintain a list of qualified experts, with such testing to be at the Applicant's sole cost and expense.
  3. Other Criteria. All wind energy systems shall also conform to the following additional requirements:
    - a. Wind energy systems shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
    - b. Wind energy systems shall not be artificially lighted or illuminated unless required by the Federal Aviation Administration, or other applicable regulatory authority for safety reasons. If safety lighting is so required, red beacons shall be used rather than flashing strobe lights.

- c. All mechanical equipment shall be screened from view from adjacent streets(s) upon which the property has frontage and from adjacent properties. The screening shall consist of shrubbery, trees or other plant material or fencing that meet the requirements of the Ordinance.
- d. The wind energy system shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower or any lattice or guy wire for a minimum height of ten feet above the ground.
- e. All moving parts of the wind energy system shall be a minimum of 20 feet above ground level.
- f. The blades on the wind energy system shall be constructed of a corrosion-resistant material.
- g. The surface of the wind energy system shall be finished with a non-reflective coating and shall be a neutral non-obtrusive color such as white, off-white, gray, brown or earth tone shade, unless required to be otherwise by the Federal Aviation Administration or other regulatory agency.
- h. All guy wires or any part of the wind energy system shall be located on the same lot as the wind energy system.
- i. The wind energy system shall be designed and installed so as to avoid (i) light flickering or shadow-flickering on neighboring properties and (ii) disruption to radio, television and other communications.

#### E. Abandonment

The following requirements shall apply and shall be a condition of approval of a special exception for an accessory alternative energy system, whether solar array or wind turbine:

1. An alternative energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned.
2. The Zoning Officer or Code Enforcement Official may issue a notice of abandonment to the owner, to be sent by regular mail and certified mail, return receipt requested, at the address of record as set forth on the tax duplicate. The owner shall have the right of appeal from such notice to

the Zoning Hearing Board, in which event, the Township shall have the burden of proving by a preponderance of the evidence that the system has been abandoned, applying the same tests as would apply in the context of an alleged abandonment of a lawful non-conforming use.

3. Any abandoned system shall be removed at the owner's sole expense within three months after the owner receives a notice of abandonment, or in the event of an appeal, within three months after the entry of a final order by either the Zoning Hearing Board or by a reviewing court, as the case may be. Any earth disturbance as a result of the removal of a system shall be graded and reseeded. Failure to comply with this requirement shall constitute a violation of the Township Zoning Ordinance, subjecting the property owner to the remedies and penalties as set forth in Article XX of this Zoning Ordinance.
4. In granting a special exception for an accessory solar energy system or wind energy system, the Zoning Hearing Board may impose a requirement that the property owner post financial security with the Township in an amount sufficient to cover the cost of removal, in the event of abandonment.

## **ARTICLE XIX**

### **NON-CONFORMING USES, STRUCTURES, LOTS, AND SIGNS**

#### **SECTION 1901. NON-CONFORMING USES**

The regulations of this Article shall apply to existing lawful uses, Structures, Lots, and Signs which do not conform to the provisions of this Ordinance nor to the provisions of any subsequent amendment hereto. Except as provided by this Article, the lawful use of a Structure of any land or premises existing at the time of the effective date of this Ordinance, any subsequent amendment thereof, or at the time of a change in the Zoning Map, may be continued although such use does not conform to the provisions of this Ordinance or of such subsequent amendment.

##### **A. Change of Use**

A Non-Conforming use may be changed to another Non-Conforming Use by grant of Special Exception only upon determination by the Zoning Hearing Board, after Public Hearing, that the proposed new use will be less detrimental to its neighborhood and surrounding than is the use it is to replace. In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things, traffic generated, nuisance characteristics (such as emission of noise, dust and smoke), fire hazards, and hours of manner of operation.

##### **B. Extension or Enlargement**

The Non-Conforming Use of a building shall not be extended or enlarged, and non-conforming building housing any such use shall not be extended or structurally altered, except insofar as is required by law to assure the structural safety of the building, unless the Zoning Hearing Board shall, as a Special Exception, authorize the extension of a Non-Conforming Use of a portion of a building throughout the building, or the limited extensions of a building which houses a Non-Conforming Use of a Lot. The Zoning Hearing Board may grant Special Exception provided that:

1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the municipality.
2. The area devoted to the Non-Conforming Use shall in no case be increased by more than fifty percent (50%).

3. Any extension of a building shall conform to the area, height, and setback regulations of the district in which it is situated.

C. Damage or Destruction

A non-conforming building which has been damaged or destroyed by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the same purpose for which it was used before its damage or destruction provided that a building permit for such reconstruction shall be applied for within one (1) year from the date of damage or destruction. Any reconstruction in a Flood Hazard Area necessitating Substantial Improvements shall be done in accordance with the provisions of §1302(B) and §1307(A).

D. Unenclosed Premises

Where a Non-Conforming Use is conducted entirely on an unenclosed premises, no Structure to house or enclose such use, whether or not such Structure would otherwise conform to zoning regulation, shall be permitted to be erected on the premises.

E. Abandonment

Whenever a Non-Conforming Use of land, premises, or Structure, or any part or portion thereof, has been discontinued for a period of one year, such discontinuance shall be presumed to constitute an intention to abandon such use and any subsequent use of the property shall be in conformity with the provisions of this Ordinance.

## **SECTION 1902. NON-CONFORMING STRUCTURES**

The continuation, Alteration or extension of a Non-Conforming Structure shall be in compliance with the following requirements:

- A. A Non-Conforming Structure being used, or proposed to be used, for a conforming purpose may continue and may be altered or enlarged unless the Alteration or enlargement would increase the non-conformity of the Structure with respect to the setback requirements, the land coverage requirements, or the density requirement of this Ordinance or any subsequent amendment in effect at the time such Alteration or enlargement is proposed to be made.

- B. A Non-Conforming Structure being used, or proposed to be used, for a conforming purpose which has been seriously damaged or destroyed by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the same purpose for which it was used before its damage or destruction, provided that such reconstruction shall be commenced within one (1) year from the date of damage or destruction and shall be completed within one (1) year thereafter.

## **SECTION 1903. NON-CONFORMING LOTS**

- A. Use for Single Family Dwellings
1. In any district in which Single Family houses are permitted, a Lot held in single and separate ownership at the effective date of the Ordinance or of any subsequent amendment hereto which is not of the required minimum area or width may be used for the construction, Alteration, or reconstruction of a Single Family Dwelling and Accessory Structures.
  2. The otherwise applicable Lot Coverage, setback, and Yard requirements shall be modified as to any lawful non-Conforming Lot so as to conform as closely as possible to the actual size of the Lot, as follows:
    - a. If a Non-Conforming Lot is less than 30,000 square feet in area, the Lot Coverage, setback and Yard requirements set forth in §1603(B) for Lots having central water and sewage (20,000 square feet) shall apply;
    - b. If a Non-Conforming Lot is at least 30,000 square feet in area, the Lot Coverage, setback and Yard requirements set forth in §1603(B) for Lots having central water and sewage (30,000 square feet) shall apply;
    - c. If a Non-Conforming Lot is at least 43,560 square feet but less than 60,000 square feet in area, the Lot Coverage, for Lots having on-site water and sewage (43,560 square feet) shall apply; and
    - d. If a Non-Conforming Lot is at least 60,000 square feet in area, the Lot Coverage, setback and Yard requirements set forth in §1603(A) for Lots having on-site water and sewage (60,000 square feet) shall apply.

B. Reduction of Lot

No Lot Area shall be so reduced that the area or width of the Lot or the dimensions of the open spaces shall be smaller than herein prescribed.

## **SECTION 1904. NON-CONFORMING SIGNS**

Any Non-Conforming Signs, Signboards, billboards, or advertising devices may be continued, subject to the following:

- A. No Non-Conforming Sign shall be moved to another position on the building or Lot on which it is located after the effective date of this Ordinance or amendment thereto, unless permitted by Special Exception.
- B. The total area of all such Signs relating to a single use at the effective date of this Ordinance, by which any Sign shall be made Non-Conforming, shall not be increased.
- C. No such Sign shall be changed or replaced except when authorized as a Special Exception by the Zoning Hearing Board.
- D. Whenever any Non-Conforming Use or Structure, or land, or of a combination of buildings, Structures, and land ceases, all Signs accessory to such use shall be deemed to become Non-Conforming and shall be removed within three (3) calendar months from the date such use terminates.

## **ARTICLE XX ADMINISTRATION**

### **SECTION 2001. APPLICATION OF REGULATIONS**

Hereafter no land shall be used or occupied, and no Structure shall be erected, altered, used, or occupied, except in conformity with this Ordinance, as it may be from time to time amended.

### **SECTION 2002. ADMINISTRATION (SEE ALSO §1308)**

The provisions of this Ordinance shall be administered by the person designated by the Township Supervisors as the Zoning Officer for this purpose. The duties of the Zoning Officer shall be:

- A. To examine all applications for permits to build upon or use land.
- B. To issue permits only for construction and uses which are in accordance with this Ordinance and as it may be subsequently amended.
- C. To record and file all applications for permits and accompanying plans and documents and keep them for public record.
- D. To issue permits for uses, authorized Variances, and Special Exceptions after approval by the Zoning Hearing Board or directed by a competent court in accordance with this Ordinance.
- E. To report all violations of the Ordinance to the Board of Supervisors and to issue orders to cease and desist to all the violators.
- F. Upon the request of the Planning Commission or the Zoning Hearing Board, to present to such body facts, records, and any similar information on specific request to assist such body in reaching its decision.

**SECTION 2003. ENFORCEMENT**

- A. This Ordinance shall be enforced by the Zoning Officer of the Township.
- B. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Officer. He shall record properly such complaint, immediately investigate, and take action thereon as directed by the Supervisors and as permitted by this Ordinance and the laws of the Commonwealth of Pennsylvania.

**SECTION 2004. PERMITS**

The following permits shall be issued by the Township:

- A. Zoning Permits

A Zoning Permit shall be required prior to the erection, Alteration, or enlargement of any building or other structure or portion thereof. It shall be unlawful for any person to commence work on the erection, Alteration, or enlargement of any building, Structure, or portion thereof until a permit has been duly issued therefor, in compliance with the terms of this Ordinance.

- B. Sign Permits

A Sign Permit shall be required prior to the erection, Alteration, or enlargement of any Sign, Sign Structure, or any portion thereof. It shall be unlawful for any person to commence work on the erection, Alteration, or enlargement of any Sign, Sign Structure, or portion thereof until a permit has been duly issued therefor. Artisans' Signs and Real Estate Signs may be erected without a Sign Permit, provided that all requirements of Article XVII are met.

C. Change in Use Permits

A Change in Use Permit shall be required prior to the occupancy of any Structure for which the use has changed, including the extension of a Non-conforming Use. If a Structure has not been used for a period of twelve months, the former use shall be deemed to be abandoned, and a Change in Use Permit shall be required for either a reuse or a new use.

D. Demolition Permit

A Demolition Permit shall be required prior to the demolishing of any Structure, or portion thereof. It shall be unlawful for any person to commence work on the demolition of any Structure, or portion thereof, without first securing a permit from the Township.

E. Building Permits

A Building Permit shall be required prior to the erection, Alteration or enlargement of any building or other Structure or portion thereof. It shall be unlawful for any person to commence work on the erection, Alteration, or enlargement of any building, Structure, or portion thereof until a Permit has been duly issued therefor, in compliance with the terms of this Ordinance and the Township Building Code.

F. Occupancy Permits

It shall be unlawful for any person to use or to occupy any building, farming unit, or other Structure or land until an Occupancy Permit has been duly issued therefor. An Occupancy Permit shall be required prior to use of any Structure hereinafter erected, altered, or enlarged for which a Building Permit is required.

G. Road Occupancy and Driveway Permits

1. A Road Occupancy Permit shall be required prior to commencing any work in the right-of-way of any Township Road.
2. A Driveway Permit shall be required for any driveway accessing onto a Township road, or a road intended to be dedicated to the Township.

**SECTION 2005. APPLICATION FOR PERMITS****A. Application for Zoning Permits**

All applications for Zoning Permits shall be made at the Township Office in writing on such forms as may be furnished by the Township, including any additional plans, documents, and information as may be required to enable the Township Code Enforcement Officer to ascertain compliance with this Ordinance.

**B. Application for Sign Permits**

An application for Sign Permit shall be accompanied by a plot plan drawn to scale showing the size and location of all buildings and Structures on the premises in question and the dimensions and location of the proposed Sign.

**C. Application for Change in Use Permits**

When the use of a Structure has changed, including the extension of a Non-Conforming Use, or when the use of a Structure has been abandoned for a period of twelve months, a Change in Use Permit shall be required to determine compliance with the terms of this Ordinance.

**D. Application for Demolition Permits**

All applications for Demolition Permits shall be made at the Township Office in writing on such forms as may be furnished by the Township, including any information required to enable the Township Code Enforcement Officer to ascertain compliance with this Ordinance.

**E. Application for Building Permits**

An application for building permit shall be accompanied by a plot plan drawn to scale showing size and location of all existing and proposed buildings and Structures on the premises in question, together with an erosion and sedimentation plan conforming with the requirements of Pennsylvania DEP Regulations, Title 25 PA Code, Chapter 102.

F. Application for Occupancy Permits

When use of premises involves a new Structure, or Alterations to an existing Structure, application for an Occupancy Permit shall be made prior to or concurrently with application for the building permit.

## **SECTION 2006. ISSUANCE OF PERMITS**

With the exception of Building Permits and Occupancy Permits, as set forth below, it shall be the duty of the Zoning Officer to either issue or deny issuance of a Zoning Permit within fifteen (15) days of the filing of a completed application and payment of prescribed fees. He shall issue a permit only upon his determination that the application is in compliance with the terms of this Ordinance, as well as any other governing ordinances, including but not limited to the Township Building Code and the Subdivision and Land Development Ordinance.

A. Issuance of a Building Permit

A Building Permit, when issued, shall be accompanied by a placard to be displayed conspicuously upon the premises during the period of construction.

B. Issuance of Sign Permit

A Sign Permit need not be displayed on the premises.

C. Issuance of an Occupancy Permit

1. An Occupancy Permit not involving a new Structure or Alterations to an existing Structure shall be either issued or denied by the Building Inspector within fifteen (15) days, as set forth hereinabove.
2. An Occupancy Permit for which application has been made prior to or concurrently with an application for a building permit shall not be issued until the construction work has been completed. Upon notification of completion of construction, the Building Inspector shall either issue or deny the Occupancy Permit within fifteen (15) days, as aforesaid.

3. It shall be the duty of the Applicant for a Building Permit to secure the issuance of the required Occupancy Permit, by giving notice of completion as aforesaid, notwithstanding the fact that he may be constructing the building Structure, addition, or Alteration for the use of another, and further to notify such proposed occupant of the requirements of this Section prior to transfer of ownership or commencement of leasehold of the property.

D. Issuance of Zoning Permits – Historic Districts

No Zoning Permit which includes the erection, reconstruction, Alteration, restoration, demolition, or razing of any Structure within any Historic District of East Marlborough Township shall be issued by the Zoning Officer unless a Certificate of Appropriateness shall have been issued by the Board of Supervisors pursuant to the Historic District regulations contained in Article XII of this Ordinance.

## **SECTION 2007. SCHEDULE OF FEES**

- A. A Board of Supervisors shall establish by resolution a schedule of fees, changes, and expenses for Zoning Permits, building permits, road occupancy and driveway permits, appeals to the Zoning Hearing Board, curative amendment hearings, and other matters pertaining to the administration of this Ordinance.
- B. Said schedule of fees shall be available from the Township Secretary and Zoning Officer and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.

## **SECTION 2008. CONDITIONAL USES**

A. Application

An application for Conditional Use approval shall be accompanied by a proposed plan showing the size and location of the proposed use and all proposed buildings and all proposed accessory facilities, including roads, access drives, and parking areas. In addition, the application shall be accompanied by such information, in graphic or narrative form, to demonstrate compliance with all applicable standards. Feasibility of water supply, sanitary sewage disposal, and storm drainage control should be demonstrated.

B. Procedure

1. A Conditional Use application shall be filed with the Township Secretary on such forms as may be prescribed by the Board of Supervisors, accompanied by the required fee.
2. The Board of Supervisors shall schedule and hold a public hearing on the application within sixty (60) days of filing, unless the applicant waives or extends the time limitation. The hearing shall be completed no later than one hundred (100) days after the completion of the Applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas. The hearing shall be conducted by the Board of Supervisors in the same manner as is prescribed for Zoning Hearing Board hearings in Sections 2103, 2106, and 2106.
3. The Township Secretary shall distribute sufficient copies of this application and supporting material to the Township Planning Commission, and one (1) copy each to the County Planning Commission and any other agencies or consultants deemed appropriate by the Board of Supervisors, together with a request that such agencies submit recommendations regarding the proposed Conditional Use.
4. If after the conclusion of the public hearing(s), the application is amended or revised, the Supervisors shall hold one or more public hearings thereon as may be necessary and shall issue a new decision thereon in conformance with the procedure established in this section. In the event that the Supervisors fail to commence the required hearing within sixty (60) days from the date of Applicant's request for a hearing, or fail to complete the hearing no later than one hundred (100) days after the completion of the Applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas, the decision shall be deemed to have been rendered in favor of the Applicant, unless the Applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the Applicant because the Supervisors failed to meet to complete the hearing or render a decision as required by this Section, the Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this Section. If the Supervisors shall fail to provide such notice, the Applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

C. Standards for Review of Proposed Conditional Use

The following standards shall be used as a guide in evaluating a proposed Conditional Use:

1. The proposed use shall meet all of the specific standards and regulations for eligibility which appear in the Section of this Ordinance authorizing the proposed Conditional Use.
2. The standards set forth in §2109, for review of Special Exception applications, shall be met.

D. In approving a conditional use application, where such use is authorized under this section, the Board of Supervisors may, in its sole discretion, attach such conditions to its approval as it deems necessary to further the purposes of this section. Such conditions may include, but not be limited to:

1. Specific modifications to area and bulk regulations as might otherwise be applicable.

**SECTION 2009. HISTORIC DISTRICTS – CERTIFICATES OF APPROPRIATENESS**

Where required to obtain a Certificate of Appropriateness, no person shall commence any work for the erection, reconstruction, Alteration, restoration, demolition, or razing of any Structure without full compliance with the terms of the Historic District regulations contained in Article XII of this Ordinance.

## **ARTICLE XXI ZONING HEARING BOARD**

### **SECTION 2101. APPOINTMENT**

There shall be a Zoning Hearing Board consisting of five (5) residents of the Township, appointed by the Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code, as amended, and hereinafter called "Code".

### **SECTION 2102. POWERS**

The Zoning Hearing Board shall function in strict accordance with and pursuant to the Code and shall have the jurisdiction to hear and render final adjudications in all matters set forth in Section 909.1(a) of the Code, including but not limited to the following:

- A. To hear and decide appeals where it is alleged that the Township Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied and provision of a valid Ordinance or map of the Township or any valid rule or regulation governing the action of the Zoning Ordinance.
- B. To hear and decide requests for Special Exceptions authorized by this Zoning Ordinance in accordance with the standards or criteria set forth below. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Code and this Zoning Ordinance.
- C. To hear requests for Variances where it is alleged that the provisions of this Zoning Ordinance inflict unnecessary hardship on the Applicant. A Variance may be granted only after the Zoning Hearing Board has made the findings required in §901.2 of the Code. In granting a Variance the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Code and this Zoning Ordinance.
- D. To conduct hearings and make such decisions and findings in connection with challenges to the validity of any provisions of the Zoning Ordinance as authorized by §916.1 of the Code.

**SECTION 2103. NOTICE OF HEARING**

The notice of Public Hearing shall state the location of the building or Lot and the general nature of the question involved and shall be given as follows:

- A. By publishing a notice thereof once a week for two (2) successive weeks in a newspaper of general circulation in the Township.
- B. By mailing a notice thereof to the Applicant, the Zoning Ordinance, the Township Secretary and any person who has made timely request for same.
- C. By mailing a notice thereof to every resident or association of residents of the Township who shall have registered their names and addresses for this purpose with the Zoning Hearing Board.
- D. By mailing notice thereof to the owner, if his address is known, or to the occupant of every Lot on the same Street within five hundred (500) feet of the Lot in question and of every Lot not on the same Street within one hundred fifty (150) feet of said Lot; provided that failure to mail the notice required by this Section shall not invalidate any action taken by the Zoning Hearing Board. All hearings shall be conducted in accordance with §908 of the Code, as amended.
- E. By posting notice thereof conspicuously on the affected tract of land.

**SECTION 2104. DECISIONS**

- A. The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board.
- B. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based on any provisions of this act or of any Ordinance, rule or regulations shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.

- C. Where the Zoning Hearing Board has power to render a decision and the Zoning Hearing Board fails to render the same within the period required by this clause, or fails to hold the required hearing within forty-five (45) days from the Applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the Applicant, unless the Applicant has agreed in writing to an extension of time. When a decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Township Secretary shall give public notice of said decision within ten (10) days in the same manner as prescribed in this Section for the giving of notice of hearing.

## **SECTION 2105. RULES**

The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure including, but not limited to, the manner of filing appeals and applications for Special Exceptions and Variances.

## **SECTION 2106. MEETINGS AND HEARINGS**

- A. Meetings and hearings of the Zoning Hearing Board shall be held at the call of the Chairman, and at such other times as the Zoning Hearing Board may determine.
- B. The first hearing shall be commenced within sixty (60) days from the date of the Applicant's request, unless the Applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the Applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for judicial relief. The hearings shall be completed no later than after the completion of the Applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas.
- C. The hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member or an independent attorney as a hearing officer. The chairman or, in his absence, the acting chairman, may administer oaths and compel attendance of witnesses.
- D. The Zoning Hearing Board shall keep a stenographic record of the proceedings and a transcript thereof shall be made available to any party at cost.

- E. The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Township and shall be a public record.
- F. In accordance with §908 of the Code, the Zoning Hearing Board shall not communicate directly or indirectly with any party, nor take notice of any material, nor inspect any site, except as provided therein.

### **SECTION 2107. APPEALS AND REQUESTS TO THE ZONING HEARING BOARD**

- A. Appeals to the Zoning Hearing Board may be filed by the Landowner affected, any officer or agency of the Township, or any person aggrieved.
- B. Such appeals shall be taken within the time required by the Code or as provided by the rules of the Zoning Hearing Board by filing with the Township Secretary or with the Zoning Hearing Board a notice of appeal specifying the grounds thereof. The Township Secretary shall forthwith transmit to the Zoning Hearing Board all the papers constituting the record upon which the action appealed from was taken.
- C. Requests for a Variance or Special Exception may be filed by any Landowner, or any tenant with permission of the Landowner.
- D. The appropriate fee, established by the Township, shall be paid in advance for each appeal or application for a Special Exception or Variance to cover advertising costs, mailing notices, and charges of the stenographer for taking notes of testimony.
- E. A copy of the final decision or, when no decision is called for, or 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 Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision, or findings and a statement of the place at which the full decision or findings may be examined.

**SECTION 2108. EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES**

Unless otherwise specified by the Zoning Hearing Board, a Special Exception or Variance which has been authorized by the Zoning Hearing Board shall expire if the Applicant fails to obtain a Zoning Permit within six (6) months from the date of authorization thereof or fails to commence a substantial amount of work within six (6) months from the date of issuance of the permit for such work.

**SECTION 2109. STANDARDS FOR REVIEW OF PROPOSED VARIANCE OR SPECIAL EXCEPTION**

- A. In any instance where the Zoning Hearing Board is required to consider a request for Variance or Special Exception, the Zoning Hearing Board must determine that the following standards and criteria are met before granting the request:
1. The size, scope, extent, and character of the Special Exception or Variance requested is consistent with the Comprehensive Plan of the Township and promotes the harmonious and orderly development of the zoning district involved.
  2. The proposed change or modification constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent, and scope of Non-Conforming Uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the conditions or use for which Applicant seeks approval.
  3. The proposed use is suitable with respect to the traffic and highways in the area and provides for adequate access and off-Street parking arrangements in order to protect major Streets and highways from undue congestion and hazard.

4. Major Street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building of parallel marginal roads or on roads perpendicular to the major Street or highway.
  5. The proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public Schools, and assures adequate arrangements for sanitation in specific instances.
  6. All commercial or industrial parking, loading, access, and service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of §1812(B) dealing with special regulations relating to access and highway frontage.
  7. Conditions are being imposed on the grant of the request necessary to insure that the general purpose and intent of this Zoning Officer is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design in buildings, aesthetics, planting, and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control, and the minimizing of noxious, offensive, or hazardous elements.
  8. The proposed change protects and promotes the safety, health, morals, and general welfare of the Township.
- B. In addition, to approve a proposed Variance the Zoning Hearing Board must also find, 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 peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Officer in the neighborhood or district in which the property is located.

2. Within the Historic District as defined by §1202 of this Ordinance, the Historic characteristics of a building may be considered within the scope of “unique physical circumstances and conditions” in any application for variance from area and bulk regulations applicable to the authentic restoration, reconstruction, or Alteration of such building.
3. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Officer and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.
4. That such unnecessary hardship has not been created by the appellant.
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.

## **SECTION 2110. APPEALS TO COURT**

Appeals from decisions of the Zoning Hearing Board may be taken by any party aggrieved thereby as provided for in the Code.

## **ARTICLE XXII AMENDMENTS**

### **SECTION 2201. POWER OF AMENDMENT**

The Board of Township Supervisors may from time to time amend, supplement, change, modify, or repeal this Ordinance, including the Zoning Map, by proceeding in the manner prescribed by this Article.

### **SECTION 2202. AMENDMENT BY BOARD OF SUPERVISORS**

The Board of Township Supervisors by resolution adopted at a Public Meeting shall fix the time and place of a Public Hearing on a proposed amendment and cause notice thereof to be given as follows:

- A. By publishing a notice thereof once a week for two (2) successive weeks in one newspaper of general circulation in the Township.
- B. The notices shall state the general nature of the proposed amendment.

### **SECTION 2203. PLANNING COMMISSION REFERRAL**

The Board of Township Supervisors shall refer each proposed change or amendment to the Township Planning Commission and the Chester County Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commissions an opportunity to submit recommendation on the proposed amendment. The Planning Commissions shall consider whether or not the proposed change or amendment would be, in the view of the Commissions, consistent with the purposes and objectives set forth in Purpose Section (§102 of this Ordinance) and desirable in furtherance of the plan therein referred to for future land development.

**SECTION 2204. AMENDMENT BY CITIZEN'S PETITION**

- A. Whenever the owners of fifty (50) percent or more of the area for which a change of zoning regulations or classification is sought shall present to the Board of Supervisors a petition duly Signed and acknowledged requesting an amendment, supplement, change, modification, or repeal of the regulations prescribed for or of the Zoning Map including such district or part thereof, it shall be the duty of the Board of Supervisors to hold a Public Hearing thereon and cause notice thereof to be given in the manner prescribed in §2202.
  
- B. Applicants to the Board of Supervisors for the amendment, supplement, change, or modification of the provisions of this Ordinance shall, upon the filing of such application, pay the appropriate fees established by the Township for each application to cover the costs of advertising and aforesaid notice, the cost of stenographic services and any other expense incurred in connection with such application, provided, however, that if the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the Applicant.

**SECTION 2205. HEARING PROCEDURE**

In providing for public notice of a hearing on a proposed Amendment, and in conducting the hearing thereon, the Board of Supervisors shall comply with the procedural requirements of Sections 609 and 610 of the MPC.

## **ARTICLE XXIII REMEDIES AND PENALTIES**

### **SECTION 2301. REMEDIES**

In case any Structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any Structure, or land is used; or any hedge, tree, shrub, or other growth is maintained in violation of this Ordinance or any regulations made pursuant thereto, the proper Township authorities, in addition to other remedies provided by law, may institute any appropriate action or proceedings to prevent such repair, conversion, maintenance, or use; to restrain, correct, or abate such violation; to prevent the use of said Structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

### **SECTION 2302. PENALTIES**

For any and every violation of the provisions of this Ordinance, the owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist; the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist; the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist; and the general agent, contractor, architect, builder, or any other person who knowingly commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be subject to enforcement of this Ordinance in accordance with the provisions of Sections 616.1 and 617 of the MPC and subject to the enforcement remedies as provide for in Sections 617.1 and 617.2 of the MPC, as well as any other remedies available to the Township at law or in equity.

## **ARTICLE XXIV PRESERVATION OF HISTORICAL AND CULTURAL RESOURCES**

### **SECTION 2401. LEGISLATIVE INTENT**

Recognizing the critical need to retain, protect and maintain places within the Township having unique historical, architectural, patriotic or cultural interest or value or other form of special character or use, as a means of maintaining the community character and beauty of East Marlborough Township, the provisions of this Article are intended:

- A. To identify all buildings, Structures, sites, objects, and landscape features, both individual and in groups, which are important to the education, culture, tradition and values of all citizens of East Marlborough Township. These shall be known as the Township's historic and cultural resources.
- B. To provide for the creation of a map or set of maps of all identified Township historic and cultural resources. Such map(s) shall designate the categories of all of the identified resources.
- C. To provide standards to be used by the Historical Commission and, as applicable or appropriate by HARB, in their decision-making processes.
- D. To provide mechanisms to encourage the appropriate and compatible restoration and reuse of identified historic Structures individually and in historic districts.
- E. To provide definition to all terms used commonly in historic preservation matters.

### **SECTION 2402. DEFINITIONS**

The following words and phrases shall have the meaning ascribed to them in this Section.

**ACT 167**

Act 167 of 1961, as amended, 53 P.S. 8001 et. seq., which provides the legislative basis for the creation of Historic Architectural Review Boards (HARBs), the powers designated to such HARBs and the certification of Historic districts within the Commonwealth of Pennsylvania which come under the purview of the HARBs.

**ALTER OR ALTERATION**

A change in the appearance of a building, Structure, site or object which is not otherwise covered by the definition of demolition, or any other change for which a permit is required under East Marlborough Township Codes. Alteration includes, but is not necessarily limited to, the re-roofing, cleaning by chemical means, sandblasting, high-pressure water wash or pointing of a building, Structure or object, or any change in the supporting members of a building, Structure or object such as bearing walls, roof rafters or stairways.

**ARCHITECTURE**

The art/science of building design and construction; a method or style of building; the product of construction; the recognizable features for any kind of Structure; the materials and methods used to produce a Structure. Architecture Signifies a standing cultural resource, either in whole or in part, used at one time for Dwelling, storage, industry, recreation, religious use or any other activity related to reasonable human functioning.

**ARCHITECT**

An individual with a degree from a recognized university and registered in the Commonwealth of Pennsylvania in the profession of architecture.

**ARCHAEOLOGY**

The science of investigation and study of the past by examination of artifacts-remains of human activity; the examination of non-renewable cultural resources deposited in the earth by human or animal-related activity over time for the purpose of defining or affirming human activities and behavior.

**ARCHAEOLOGIST**

An individual with a degree from a recognized university in the science of archaeology. A Master's degree is usually required for professional purposes in this field.

**BUILDING OFFICIAL**

Whenever the term Building Official is used in this Article, the same shall be construed to mean the Building Inspector or his designee.

**CERTIFIED HISTORIC DISTRICT**

This is an “Act 167 District.” An identified collection of buildings, sites, etc. (a) meeting the requirements of the Pennsylvania Historical and Museum Commission for certification under Act 167 of 1961, 53 P.S. 8001 et. seq. as amended, and (b) regulated as such under Article XII of the Township Zoning Ordinance.

**CONSTRUCT OR CONSTRUCTION**

The erection of a new building, Structure, or object upon a site.

**CONTRIBUTING BUILDING, STRUCTURE, SITE OR OBJECT**

A building, Structure, site or object within an historic district that reflects the cultural, historical or architectural character of the district as defined by the HARB’s designation, or by the National Register nomination.

**CULTURAL LANDSCAPE**

The minimum essential setting or context in which an identified historic resource retains its historic integrity; “resource” being constituted by either an individual object, site or Structure, or my multiple objects, sites or Structures; “historic setting” including both natural (trees, streams, Slopes, etc.) and man-made features (bridges, outbuildings such as springhouses, barns, stables, railroad tracks, cemetery markers, etc.); “historic integrity” being the unimpaired state which allows the viewer of the resource to have a better understanding of the materials and culture of the past.

**DEMOLITION BY NEGLECT**

The failure to provide ordinary and necessary maintenance and repair to a building, Structure or object which is an historic resource or is located in an historic district, whether by ordinary negligence or willful neglect, purpose or design, by the owner or any party in possession thereof, which results in one of the following:

(i) the deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist;

(ii) the deterioration of exterior walls, roofs, chimneys, windows, the lack of adequate waterproofing, or deterioration of interior features or foundations which will or could result in permanent damage or loss of exterior features.

A confirmation of such demolition by neglect shall be issued by the Zoning Officer.

**DEMOLITION OR DEMOLISH**

The razing or destruction, whether entirely or in Significant part, of a building, Structure, site or object. Demolition includes the removal of a building, Structure or object from its site or the removal or destruction of the façade or surface.

**EXTERIOR FEATURES**

The architectural style, design and general arrangement of the exterior of a building, Structure or object, including the color, nature and texture of building materials, and the type of style of all windows, doors, light fixtures, Signs, or other similar items found on or related to the exterior of a building, Structure or object.

**HISTORIC ARCHITECTURAL REVIEW BOARD (HARB)**

An advisory board designated by the Board of Supervisors under the authority of Act 167 of 1961, as amended, 53 P.S. §8001, et. seq., to deal with matters relating to historic Structures in a Certified Historic District.

**HISTORICAL COMMISSION**

An advisory board designated by the Board of Supervisors under the authority of the Pennsylvania Municipalities Planning Code (Sections 603(b)(5), 604(1), and 605(2)(vi)), as amended, 53 P.S. §10101, et. seq., to deal with matters pertaining to any of the Township's identified cultural and historic resources not located within a Certified Historic District.

**NATIONAL REGISTER HISTORIC DISTRICT**

An area of any size which has been designated as a National Register Historic District pursuant to the requirements of the National Park Service.

**NATIONAL REGISTER SITE**

As above, but an individual site or Structure.

**OBJECT**

A material thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature or design, movable yet related to a specific culture, setting or environment. An example would be an Indian totem.

**SCENIC, HISTORIC, OR CULTURAL RESOURCE**

A site, or collection of sites, building, or collection of buildings, with such a combination of historical, natural and scenic attributes as to create an irreplaceable, unique entity that serves as an element in defining the community character, as identified in the Scenic, Historic and Cultural Resources Overlay Map.

**SCENIC, HISTORIC, OR CULTURAL RESOURCE OVERLAY MAP**

The Scenic, Historic and Cultural Resources Map adopted by the Township within its 1992 Township Open Space Study, as the same may be from time to time amended (the "Map").

**SCENIC ROADWAY**

Selected roadways open to public view with Significant aesthetic qualities derived from a combination of open space or natural resources and any built resources, as identified in the 1992 East Marlborough Township Open Space Study.

**SITE**

The location of a Significant event, a prehistoric or historic occupation or activity, or a Structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archaeological value regardless of the value of any existing Structure.

**SECTION 2403. GENERAL PROVISIONS****A. Preservation of Other Restrictions.**

It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restriction, the provisions of this Article shall prevail.

**B. Scenic, Historic and Cultural Resources Overlay Zone**

The individual sites and areas identified by the Scenic, Historic and Cultural Resources Map ("Map") are hereby adopted by reference to said Map, and as to all such individual sites and areas not included within the "H" Historic District regulated under Article XII of this Ordinance, shall be deemed an overlay on any existing zoning district now or hereafter enacted in East Marlborough Township. Requirements of this Article shall apply in addition to the applicable requirement of the underlying zoning. This Article shall supersede the requirements of the underlying zoning where those underlying requirements are inconsistent with the provisions of this Article. For ease of reference, such individual sites and areas may be herein referred to variously as historic, cultural or scenic resources.

**SECTION 2404. IDENTIFICATION OF HISTORIC AND CULTURAL RESOURCES – HISTORIC AND CULTURAL RESOURCES MAP ("MAP")****A. Classifications**

These maps delineate two classifications of Historic and Cultural resources:

1. Class I or Landmark Cultural Resource

These resources are:

- a. certified historic Structures as set forth in the Map, and National Register listed Buildings, Structures, sites, and objects, or
- b. contributing resources to Buildings, Structures, sites, and objects listed in Subsection a., or
- c. buildings, sites, Structures, objects, and districts which have received a Determination of Eligibility (DOE) to the National Register, or
- d. resources which are deemed by the Township (in its role as National Park Service Certified Local Government) to meet substantially the National Register criteria.

2. Class II Resources

These resources are those historic sites and Structures designated by the Township on the Map as meriting a review prior to the Township issuing a permit for demolition.

Such Structures and sites:

- a. shall be at least 50 years old, and
- b. shall have Significant character, interest or value as an example of development, heritage or character of East Marlborough Township, or
- c. shall be the site of a Significant historic event which may or may not have taken place within or involved the use of any existing improvements (e.g. a battlefield that has had Structures built upon it), or
- d. shall exemplify the cultural, political, economic, social or historical heritage of the community, or
- e. shall reflect the environment in an era of history characterized by a distinctive architectural style, or

- f. shall embody distinguishing characteristics of an architectural style or engineering specimen, or
- g. shall be the work of a designer, architect, landscape architect or designer, or engineer whose individual work has Significantly influenced the development of East Marlborough Township, or
- h. shall contain elements of design, detail, materials or craftsmanship which represent a Significant innovation, or
- i. shall be the singular known example of a design, or use of a material or style of architecture within the Township, or
- j. shall be part of, or related to, a square, park, or other distinctive area which merits a separate cultural landscape preservation plan based on historic, cultural or architectural motif, or
- k. shall be considered a local “landmark” that is, an established and familiar visual feature which assets in defining the character of the neighborhood, community, or Township due to its unique location or singular physical characteristics, or
- l. shall be part of a view into or out of an existing historic district and contributes to the integrity, understanding and appreciation of the cultural landscape of that existing historic district, or
- m. shall have yielded, or be likely to yield information of importance to pre-history or history through, but not limited to, such research mechanisms an analysis of construction methods, patterns of use, methods of maintenance, foodstuff distribution and use patterns (the archaeological record), builders’ trenches (archaeological), placement of buildings on site, etc., or
- n. shall be associated with the lives of persons important in the formation of the Township, or
- o. shall provide the cultural landscape for an identified resource or historic district.

B. Revisions

1. The Scenic, Historic and Cultural Resources Map may be revised by legislative action of the Board of Supervisors using Ordinance amendment procedures, including the public notice and hearing requirements as specified in Sections 609 and 610 of the Pennsylvania Municipalities Planning Code.
2. In considering any revision, including additions, deletions or changes of classifications, to the Scenic, Historic and Cultural Resources Map, the Board of Supervisors shall solicit and receive written recommendation from the Historical Commission and the Planning Commission.
3. Owners of all properties which are impacted by such proposed administrative action shall be given written notice of the Historical Commission's recommendation at least thirty (30) days prior to the Public Hearing at which the Board of Supervisors considers action. If fewer than fifty (50) contiguous properties are considered for such an action, individual written notices shall be sent to the current owner of record of those properties in such a fashion as to reach the owners and give thirty (30) days for comment; if more than fifty (50) contiguous properties are considered, the published notices of the hearing shall include a map and written boundaries of the area being considered and the action to be taken.
4. Any revision to a Certified Historic District regulated under Article XII must be certified by the Pennsylvania Historical and Museum Commission.

C. Official List

An official list of all historic and cultural resources regulated hereunder showing the classification of each resource shall be maintained by the Historical Commission and staff and be updated on a regular basis to reflect any changes in classifications.

## **SECTION 2405. POWERS AND PROCEDURES OF THE EAST MARLBOROUGH HISTORICAL COMMISSION**

Powers allotted to the East Marlborough Historical Commission shall include review over proposed rehabilitations, enlargements, Alterations, landscaping, Buffering, modifications to bulk and area regulations, relocation of a resource, and demolition either of or impacting an identified historic/cultural resource not located within the “H” Historic District. Additionally, it shall be called to review and comment upon all subdivision applications, either traditional or cluster, directly involving or in any way impacting upon an identified historic or cultural resource, whether or not located within the “H” Historic District.

## **SECTION 2406. REVIEW OF PROPOSED REHABILITATIONS, ENLARGEMENTS AND ALTERATIONS**

### **A. Building Permits**

1. No Building permit for the rehabilitation, enlargement, or Alteration of a Class I historic or cultural resource shall be issued by the Building Officer prior to the issuance of a Zoning Permit. Except as to resources located within the “H” Historic District, the issuance of a Zoning Permit by the Zoning Officer shall be based on the review and comment on the application by the East Marlborough Historical Commission, in accordance within the terms of this Section.
2. Building permits for Class I historic resources in Certified Historic Districts shall be issued in accordance with Article XII, Section 1203 of the Zoning Ordinance, which mandates the issuance of a Certificate of Appropriateness after a review by the HARB, before the Building Officer may issue a building permit.

### **B. Zoning Officer**

The Zoning Officer shall provide the Historical Commission with a copy of the application, together with any plans or diagrams required by this Ordinance, within five (5) working days of receipt of a completed application.

C. East Marlborough Historical Commission

The Commission shall, within thirty (30) days of receipt of a complete application from the Zoning Officer, review the plans for compliance with the standards contained in Section 2412 and prepare a written report to the Zoning Officer with a copy to be sent to the Applicant, indicating whether the plans are in substantial compliance. The report shall make written suggestions as to what specific changes in the plans would bring them into substantial compliance.

D. Issuance of Building Permit

Upon receiving a report of substantial compliance from the Historical Commission, and provided that the plans satisfy all other requirements of the Township, the Zoning Officer shall issue a Zoning Permit. After the Zoning Permit is issued, the Applicant may obtain a building permit from the Building Officer.

E. Delaying or Denial of a Building Permit

If the Historical Commission's report indicates that the plans are not in substantial compliance with the standards contained in Section 2412, the Zoning Officer shall not issue the Zoning Permit until:

1. The plans have been revised by the Applicant in accordance with the Historical Commission's recommendations, or
2. The Historical Commission documents a compromise that has been worked out with the Applicant, or
3. 90 days have elapsed from the date of application, and the Applicant has documented economic hardship, technical infallibility, or other reasons why the Historical Commission's recommendations will not be implemented.

After the Zoning Permit is issued, the Applicant may obtain a building permit from the Building Officer.

**SECTION 2407. LANDSCAPING**

When a Class I historic resource is located within a tract proposed for subdivision or land development, a landscape plan for the grounds surrounding the Class I historic resource shall be required by the Township as part of the preliminary plan submission.

1. The plan shall be prepared by a registered landscape architect, or by a nurseryman or other individual deemed qualified by the Board of Supervisors.
2. The plan shall show all pertinent information, including the location, size, and species of all individual trees and shrubs to be removed, planted, or preserved.
3. Through screening, Buffering, and selection of plant material, the plan shall minimize the impact of the proposed development on the Class I historic resource and project its integrity of setting and any Significant vegetation.
4. The landscape plan shall be submitted to the East Marlborough Historical Commission for its review and comment prior to any decision by the Board of Supervisors on the subdivision or land development plan.

**SECTION 2408. BUFFERING**

When any subdivision, land development, or non-residential use is proposed on a property, any boundary of which is within 100 feet of an exterior wall of a Class I historic resource, the Applicant shall be required to submit a plan depicting how the Class I historic resource will be Buffered against the deleterious impacts of the proposed development.

Buffering may include, but need not be limited to:

1. Vegetative screening and fencing, the appropriateness and effectiveness of which shall be evaluated by the East Marlborough Historical Commission prior to any plan approval or permit issuance.
2. Historically appropriate man-made Buffering, such as stone walls, that reflect the historic and cultural character of the surrounding area. The appropriateness of such proposed Buffering shall be evaluated by the Historical Commission prior to any plan approval or permit issuance.

3. Where the proposed action will impact a Class I resource that is within an Act 167 certified historic district, the HARB will also be required to review the proposed development plan, either separately, or at the same meeting as the East Marlborough Historical Commission.

## **SECTION 2409. SPECIAL EXCEPTION AREA AND BULK PROVISIONS**

In the interest of preserving the Township's Historic Resources and the historic context of these resources, and to encourage appropriate use/reuse of a resource, modifications to the Lot size, dimension, and Yard size may be permitted by Special Exception as set forth below for plans affecting identified Township Historic Resources, providing the standards, conditions, and procedures of this Section are met.

### **A. Allowable Modifications**

1. **Lot Standards:** In a subdivision proposing to use the Lot Averaging or Cluster Development option in accordance with Article XVI of the Zoning Ordinance, the Lot size authorized in that Article may be adjusted downward for an identified Township historic resource in cases where the historic resource contains two or more contributing Structures (barns, springhouses, etc.) to accommodate conversion of these Structures to residential use to preserve the integrity of the historic complex.
2. **Number of Dwellings:** In subdivisions proposing to use the Lot Averaging or Cluster Development option, an additional Dwelling Unit may be created in excess of the maximum number of Dwelling Units otherwise permissible under this Ordinance for each contributing Structure in a Township Class I or Class II historic resource to be preserved as a Dwelling Unit in the subdivision plan.
3. **Setbacks:** In proposed subdivisions, setback requirements may be modified if necessary to preserve the integrity of an identified historic resource.

B. Procedures

1. Zoning Officer: The Zoning Officer shall provide the Historical Commission with a copy of the request for Special Exception, together with any plans or diagrams related to the request within five (5) working days of receipt of the request.
2. Historical Commission
  - a. The Commission shall review the request for Special Exception and evaluate whether the proposed modifications are necessary to the preservation of the resource.
  - b. The Commission also shall review any construction plans for their compliance with the standards in Section 2412 of this Article. Specific recommendations shall be transmitted in the form of a written report to the Zoning Officer and the Zoning Hearing Board, and shall indicate what specific changes in the plans would bring them into substantial compliance with the standards.
  - c. The written report of the Historical Commission shall be admissible before the Zoning Hearing Board provided that it is introduced as part of the testimony of the Chairman or representative of the Commission, with such person being subject to cross examination by the Applicant, or the Applicant stipulates to its admission without further testimony.
3. Zoning Hearing Board: The Zoning Hearing Board, through the grant of a Special Exception, may approve requested modifications to the otherwise applicable Lot size, Lot dimension, or Yard requirements for plans affecting Class I or Class II historic resources, provided the following additional criteria are met:
  - a. The granting of the Special Exception is deemed to be supportive to the preservation of the historic resource, and
  - b. The granting of the Special Exception will be deemed by the Zoning Hearing Board to have minimal detrimental effect on neighboring properties.

- c. The Historical Commission has reviewed and commented on the request in accordance with the terms of this Section. Resources in a Certified Historic District must also comply with the requirements of Section 1203B of the Zoning Ordinance.
4. Implementation: In order to assure that the historic resource(s), the preservation of which has generated an Allowable Modification under Section 2409A, and/or a Special Exception under Section 2409B.3, the following implementation procedures shall be utilized:
  - a. The construction plans approved by the Historical Commission and/or Zoning Hearing Board must be implemented before a building permit is issued for a “bonus” Lot or Dwelling Unit.
  - b. The Township Engineer, in consultation with a qualified architect as deemed necessary, shall estimate the cost of renovation/preservation of the historic/cultural resource in accordance with the approved construction plans (including both interior and exterior renovations).
  - c. The Applicant shall post, prior to or concurrently with recordation of the subdivision or land development plan, financial security in an amount equal to 110% of such estimated costs (including costs of inspection) in accordance with Section 509 of the MPC, to assure that the approved construction plans are properly implemented.
  - d. Upon completion and inspection of the renovation of the historic/cultural resource in accordance with the approved construction plans and/or Special Exception, the financial security shall be released and a building permit for construction of the bonus Dwelling Unit(s) may be issued.

## **SECTION 2410. SPECIAL USE PROVISIONS**

In the interest of preserving the Township’s historic resources and encouraging appropriate use/reuse of these resources, additional use opportunities set forth below may be permitted by Special Exception for identified Township historic resources, provided the terms of this Section are met.

A. Allowable Special Uses

1. Bed and Breakfast: Conversion to a Bed and Breakfast use of a historic resource (or contributing Structure) may be allowed even if the building is not an owner-occupied single-Family Dwelling or does not meet the minimum Lot size and setback requirements of Section 1813 of the Zoning Ordinance.
2. Residential: Conversion of a currently non-residential historic resource (barn, springhouse, etc.) into residential use, may be allowed even if the Lot does not meet the size requirement of the Base Zoning. Multiple Family use may also be allowed as long as the property meets the area and bulk requirements of Section 603B.
3. Professional Office: Conversion to professional office use of an historic resource may be allowed in a residential area without requiring all of the constraints of a home business.

B. Procedures

1. Zoning Officer: The Zoning Officer shall provide the Historical Commission with a copy of the request for Special Exception, together with any plans or diagrams related to the request within five (5) working days of receipt of the request.
2. East Marlborough Historical Commission:
  - a. The Commission shall review the request for Special Exception and evaluate whether the proposed modifications are necessary to the preservation of the resource.
  - b. The Commission also shall review any construction plans for their compliance with the standards in Section 2412 of this Article. Specific recommendations shall be transmitted in the form of a written report to the Zoning Officer and the Zoning Hearing Board, and shall indicate what specific changes in the plans would bring them into substantial compliance with the standards.

- c. The written report of the Historical Commission shall be admissible before the Zoning Hearing Board provided that it is introduced as part of the testimony of the Chairman or representative of the Commission, with such person being subject to cross examination by the Applicant, or the Applicant stipulates to its admission without further testimony.

C. Zoning Hearing Board:

The Zoning Hearing Board, through the grant of a Special Exception, may approve requested special uses for Class I or Class II historic resources, provided the following additional criteria are met:

1. The granting of the Special Exception is deemed to be supportive to the preservation of the historic resource, and
2. The granting of the Special Exception will be deemed by the Zoning Hearing Board to have minimal detrimental effect on neighboring properties.
3. The Historical Commission has reviewed and commented on the request in accordance with the terms of this Section. Resources in a Certified Historic District must also comply with the requirements of Section 1203B of the Zoning Ordinance.

## **SECTION 2411. RELOCATION OF A RESOURCE**

In the case of a proposed relocation of a building, Structure or object constituting all or a part of Class I or Class II historic resources, the Historical Commission shall consider:

- A. whether or not the proposed relocation will have a detrimental effect in the long term on the Structure or object;
- B. whether or not the proposed relocation will have a detrimental effect on the historic, architectural or archaeological aspects of the other buildings, Structures, site or objects adjacent to the resource. Assessment of the archaeological impact shall be made in conjunction with the archaeologist from the Bureau for Historic Preservation of the Pennsylvania Historical and Museum Commission.

- C. whether or not the proposed relocation will provide an environment that will be a compatible cultural landscape, that is, one that is harmonious with the historic and/or architectural aspects of the building Structure or object, and
- D. whether or not the proposed relocation will further the achievement of the purposes described in Section 2401.

## **SECTION 2412. DESIGN STANDARDS FOR HISTORIC RESOURCES**

- A. Any proposed rehabilitation, Alteration, or enlargement of a Class I historic resource shall be in substantial compliance with the Secretary of the Interior's currently adopted Standards for Rehabilitation, as revised. At the time of enactment of this Article, those standards are as printed in Appendix A.
- B. For an application to be eligible for the additional use or zoning opportunities, it shall meet the following standards:
  - 1. Floor area: No historic resource may be enlarged beyond what is minimally necessary to accommodate the expanded use.
  - 2. Additions: For a Class I resource, an addition shall only be permitted if it does not negatively impact the front or major façade of the historic resource.
  - 3. Signs: Signs for historic resources shall adhere to the following standards:
    - a. Number: No more than one Sign may be erected on any one Street frontage of any Lot.
    - b. Format:
      - i. a Sign may be placed flat upon the wall of the building to which it relates, or constitute part of the architectural design of such building; the size of such Sign shall not exceed ten (10) square feet; or
      - ii. a Sign may project from the building to which it relates a maximum of six (6) feet; such Sign shall be limited to two faces and shall not exceed ten (10) square feet per face; or

iii. a Sign may be free-standing, with two faces, with an area not exceeding ten (10) square feet per face, with the top of the Sign not to exceed eight (8) feet from the ground level.

c. Lighting of Signs:

Free-standing Signs shall only be illuminated in accordance with the provisions of Section 1705.H and Section 2412(B)4.

d. Materials:

Natural materials are preferred for Signs relating to historic resources. Under no circumstances will plastic, internally illuminated Signs be allowed in relation to an identified Township historic resource.

e. Approval:

All Signs within the "H" Historic District are subject to HARB approval.

4. Outdoor Lighting:

All outdoor lighting, such as Sign lighting, shall be directed in such a way as to not create a nuisance to users of adjoining Streets or property, or subject them to direct or indirect glare or interference of any kind.

## **SECTION 2413. DEMOLITION OF HISTORIC RESOURCES**

No Class I or Class II historic/cultural resource or any building within an "H" Historic District or other Historic District listed on the National Register may be demolished until the Applicant obtains a building permit under the terms of Article XX Section 2004, and complies with the following additional procedures:

A. Application

The Applicant shall file with the Zoning Officer, who will forward the same to the Historical Commission, with the following items:

1. one copy of the application for demolition,
2. recent interior and exterior photographs of the resource proposed for demolition,
3. a site plan showing all buildings on the property, and
4. an explanation of (1) the reasons for demolition, and (2) the future use of the site. This must include:
  - a. a statement of whether the property is capable of generating a reasonable return with the resource left in place,
  - b. a statement of whether the resource is adaptable to some other use which would result in a reasonable return,
  - c. a financial statement of whether rental or other use of property in its current or an improved condition can provide a reasonable rate of return,
  - d. a statement that a demonstrable, good-faith attempt has been made to sell the resource to someone interested in preserving it, and
  - e. a proposed site plan for development after the demolition.
5. Demolition requested within the “H” Historic District must also follow the procedures in Article XII Section 1207, under the powers of the East Marlborough HARB.
6. No permit for demolition may be issued until the Applicant has submitted and obtained approval of his/her plans for new development under the provisions of the East Marlborough Township Subdivision and Land Development Ordinance of 1992.

B. Review Meeting

Within thirty (30) days of receipt of a complete application, at its regular or a special meeting, the Historical Commission shall meet to review the application for demolition. The Applicant will be notified in writing of the meeting and encouraged to present written and photographic evidence or testament pertaining to the demolition. In reviewing the application, the Historical Commission shall take into account:

1. The effect of demolition on the historical Significance and architectural integrity of neighboring contributing historic resources;
2. Economic feasibility of adaptively reusing the resource proposed for demolition;
3. All conceivable alternatives to demolition of the resource, including relocation of the Structure;
4. Any expert testimony, such as but not limited to certified engineering report regarding the structural stability of the resource, that would indicate threats to public safety.
5. The archaeological potential of the site. This shall be done in conjunction with an archaeologist from the Bureau for Historic Preservation of the Pennsylvania Historical and Museum Commission, or her/his designee.

C. Historical Commission Written Recommendation

Within thirty (30) days following conclusion of the meeting, the Historical Commission shall set forth its recommendation in a written report to the Board of Supervisors and the Applicant.

1. In specific cases as will not be contrary to the public interest, where, owing to demonstrated special conditions, as determined under Section 2413 paragraph B, a literal enforcement of the provisions of this Section would result in unnecessary hardship, the Historical Commission may grant an exemption from the requirements of this Section, subject to such terms and conditions as the Historical Commission may decide, so that the spirit of this Article shall be observed and substantial justice done.
2. Every recommendation of the Historical Commission shall be in writing and shall state the reasons for the decision. The decision shall contain the findings of fact that constitute the basis for the decision. In any case where the Historical Commission objects to the issuance of a permit required under this Section, the Historical Commission shall furnish the Applicant with a copy of the Historical Commission's decision, together with a copy of any recommendations the Historical Commission may have made for changes necessary to be made before the application will be reconsidered by the Historical Commission.

D. Board of Supervisors' Response

Within thirty (30) days of the review of the demolition application by the Historical Commission, the Board of Supervisors shall consider the application for demolition at a Public Hearing. The Applicant will be notified of the meeting and encouraged to present written and photographic evidence of testimony pertaining to the demolition.

The Board of Supervisors may vote to:

1. authorize the permit immediately, or
2. delay the authorization decision for a period to allow the Township and the Applicant to explore alternatives. The period shall not exceed ninety (90) days from the date of the initial application for a demolition permit.

In cases where the Board of Supervisors agrees to the demolition of a building, Structure or object in an Historic District, the Board of Supervisors may require that the building, Structure or object be recorded, at the owner's expense, according to the documentation standards of the Historic American Engineering Record (HABS/HAER), with such written, drafted and photographic documentation being deposited with the Board of Supervisors and any other historical agency the Board of Supervisors deems necessary. In the case of a demonstrated economic hardship, a less stringent form of documentation may be prescribed by the Board of Supervisors. The Board of Supervisors may require that the Applicant donate architectural ornamental materials salvaged from the Structure that the Applicant plans to discard to any non-profit organization that can assure the reuse of the materials in area Structures.

E. Demolition by Neglect

1. Demolition by neglect shall not be used as an automatic excuse by an Applicant as justification for an active demolition application.
2. When an owner has held an identified Class I or Class II resource property for at least five (5) years and allowed the property to fall into the category of demolition by neglect due to lack of routine maintenance, and cannot prove that the negligence has occurred due to lack of financial ability to provide maintenance, such owner shall be deemed in violation of the terms of this Section.
3. Enforcement and penalties that pertain to active demolition shall also pertain to passive (by neglect) demolition, shall be issued at the

maximum level, and shall be cumulative from the documented date of the Township's discovery of the neglect.

F. Enforcement

1. Violations and Penalties.

Any person who violates the terms of this Section shall be subject to the penalties imposed under Article XXIII, Section 2302, as well as applicable penalties imposed under the Township Building and Fire Codes.

G. Appeal Procedures

1. Any person aggrieved by a decision of the Historical Commission or the Board of Supervisors may, within thirty (30) days after receiving notice of the decision, either (a) file an appeal therefrom under subsection F.3., or (b) apply for reconsideration of the initial decision, by filing with the Zoning Officer a written notice requesting the Board of Supervisors to review said decision. In such event, the Board of Supervisors' initial decision shall not be considered a final adjudication under the MPC.

The Board of Supervisors shall conduct a Public Hearing, at which time it may consider the original case in dispute and any new evidence not previously presented to the Historical Commission or the Board of Supervisors which may have bearing on the application. Following the Public Hearing, the Board of Supervisors may reverse or modify its decision if:

- a. every reasonable effort has been made by the Applicant to agree to the requirements of the Board of Supervisors; or
  - b. the rationale behind the Historical Commission's decision and recommendations may be interpreted as arbitrary and capricious; or
  - c. owing to special conditions pertaining to the specific piece of property, the decision of the Board of Supervisors, if not reversed or modified, will cause undue and unnecessary hardship.
2. Within forty-five (45) days of the Public Hearing, the Board of Supervisors must render a final decision upon the application in one of the following categories:

- a. Unconditional approval of the application as presented by the Applicant.
  - b. Conditional approval of the application with conditions recommended by the Historical Commission and set by the Board of Supervisors.
  - c. Unconditional denial of the application.
3. Any person aggrieved by a decision of the Board of Supervisors, may, within thirty (30) days after receiving notice of the decision, seek judicial review of that decision in accordance with the MPC.

## **APPENDIX A**

### **SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION**

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of the property shall be retained and preserved. The removal of historic materials or Alterations of features and spaces that characterize a property, shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic Significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of Structures, if appropriate, shall not be used. The surface cleaning of Structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New materials, exterior Alterations, or related construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Enacted and Ordained by the Board of Supervisors of East Marlborough Township, Chester County, Pennsylvania this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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Attest:

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