

## **CHAPTER 27**

### **ZONING**

#### **PART 1**

##### **PURPOSES, SCOPE, INTERPRETATION, SHORT TITLE**

- §27-101. Short Title
- §27-102. Statement of Community Objectives
- §27-103. Scope
- §27-104. Interpretation
- §27-105. Validity and Severability
- §27-106. Repealer
- §27-107. Effective Date

#### **PART 2**

##### **DEFINITIONS**

- §27-201. General
- §27-202. Definitions

#### **PART 3**

##### **CLASSIFICATION OF DISTRICTS**

- §27-301. Classes of Districts
- §27-302. Zoning Map
- §27-303. District Boundaries
- §27-304. Boundary Tolerances
- §27-305. Interpretation of Boundaries
- §27-306. Regulations and Restrictions

#### **PART 4**

##### **AP – AGRICULTURAL PRESERVATION DISTRICT**

- §27-401. AP – Agricultural Preservation District

- §27-402. Use Regulations
- §27-403. Density, Area and Bulk Regulations
- §27-404. Requirements for Subdivision of a Tract
- §27-405. Requirements Regarding Residential Uses
- §27-406. Requirements Respective to Nonagricultural Uses Other Than Residential Uses
- §27-407. Additional Regulations For Agritainment and Agritourism

## **PART 5**

### **RU – RURAL DISTRICT**

- §27-501. RU – Rural District
- §27-502. Use Regulations
- §27-503. Area and Height Regulations
- §27-504. Additional Regulations For Agritainment and Agritourism

## **PART 6**

### **RA – RESIDENTIAL DISTRICT**

- §27-601. RA – Residential District
- §27-602. Use Regulations
- §27-603. Area and Height Regulations

## **PART 7**

### **RMH – RESIDENTIAL-MOBILE HOME DISTRICT**

- §27-701. RMH – Residential-Mobile Home District
- §27-702. Use Regulations
- §27-703. Site Requirements
- §27-704. Area, Density, Width, Yard and Height Regulations For Mobile Homes and Accessory Structures Within Mobile Home Parks
- §27-705. Standards For Mobile Home Parks
- §27-706. Nonresidential Use
- §27-707. Administration
- §27-708. Area and Width Requirements For Principal Buildings Other Than Mobile Homes in Mobile Home Parks

**PART 8**

**AGE QUALIFIED RESIDENTIAL COMMUNITY DISTRICT**

- §27-801. Permitted Uses
- §27-802. Development Regulations
- §27-803. Occupancy Restrictions For An Age Qualified Residential Community
- §27-804. Declaration of Age Restriction For An Age Qualified Residential Community

**PART 9**

**V – VILLAGE DISTRICT**

- §27-901. V – Village District
- §27-902. Use Regulations
- §27-903. Area, Height and Special Regulations
- §27-904. Village Design Standards

**PART 10**

**HV – HISTORIC VILLAGE DISTRICT**

- §27-1001. Historic Village District
- §27-1002. Use Regulations
- §27-1003. Area, Height and Special Regulations

**PART 11**

**RV – RURAL VILLAGE DISTRICT**

- §27-1101. Rural Village District
- §27-1102. Use Regulations
- §27-1103. Area, Height and Special Regulations

**PART 12**

**LB – LOCAL BUSINESS DISTRICT**

- §27-1201. LB – Local Business District

- §27-1202. Use Regulations
- §27-1203. Area, Height and Special Regulations
- §27-1204. Village Design Standards

### **PART 13**

#### **HB – HIGHWAY BUSINESS DISTRICT**

- §27-1301. HB – Highway Business District
- §27-1302. Use Regulations
- §27-1303. Area, Height and Special Regulations
- §27-1304. Village Design Standards

### **PART 14**

#### **LIB – LIGHT INDUSTRIAL AND BUSINESS DISTRICT**

- §27-1401. LIB – Light Industrial and Business District
- §27-1402. Permitted Uses
- §27-1403. Area and Height Regulations

### **PART 15**

#### **I – INDUSTRIAL DISTRICT**

- §27-1501. I – Industrial District
- §27-1502. Use Regulations
- §27-1503. Area, Yard, Height and Special Regulations
- §27-1504. Parking Area Setbacks
- §27-1505. Performance Standards
- §27-1506. Special Requirements
- §27-1507. Off-Street Parking Regulations
- §27-1508. Off-Street Loading Regulations
- §27-1509. Site Plan Review

### **PART 16**

#### **GENERAL REGULATIONS**

- §27-1601. Nonconforming Uses, Structures and Buildings

- §27-1602. Nonconforming Lots of Record
- §27-1603. Reduction of Lot
- §27-1604. Utility Exemption
- §27-1605. Access Driveways
- §27-1606. Yard Exception for Accessory Buildings and Structures
- §27-1607. Wireless Communications Facilities and Small Wireless Facility(ies)
- §27-1608. Prohibited Uses and Performance Standards
- §27-1609. Off-Street Parking Requirements
- §27-1610. Loading and Unloading Space
- §27-1611. Removal of Top Soil
- §27-1612. Highway Frontage Development
- §27-1613. Setback on Major Highway
- §27-1614. Home Occupation
- §27-1615. Bed and Breakfast Inns
- §27-1616. Kennels
- §27-1617. Roadside Stand
- §27-1618. Fences
- §27-1619. Corner Lot Restrictions
- §27-1620. Mobile Home Requirements
- §27-1621. Erection of More Than One Principal Structure on a Lot
- §27-1622. Outdoor Flea Market
- §27-1623. Erection of a Principal Structure on Two Adjacent Lots in the Same Ownership
- §27-1624. Sewage Disposal and Water Supply
- §27-1625. Outdoor Restaurants
- §27-1626. Outdoor Farmers Market
- §27-1627. Keeping of Grazing Animals
- §27-1628. Fuel Pump Islands and Canopies and Fueling Station Lighting
- §27-1629. Exterior Lighting
- §27-1630. Renewable Energy Systems
- §27-1631. Timber Harvesting Operations
- §27-1632. Special Provisions For Properties With Historic Resources
- §27-1633. Landscaping and Screening

## **PART 17**

### **NATURAL RESOURCE CONSERVATION**

- §27-1701. Conservation of Natural Resources
- §27-1702. Wellhead Protection

**PART 18**

**OPEN SPACE DESIGN STANDARDS**

§27-1801. Open Space Design Option

**PART 19**

**SIGNS**

- §27-1901. Purpose
- §27-1902. Definitions
- §27-1903. Signs in AP, RU, RA, RMH, AQRC and HV Districts
- §27-1904. Signs in V, RV, LB, HB, LIB and I Districts
- §27-1905. General Sign Requirements
- §27-1906. Permits
- §27-1907. Standard Type of Construction of Permitted Sign
- §27-1908. Removal of Signs/Enforcement

**PART 20**

**ZONING HEARING BOARD**

- §27-2001. Creation and Membership
- §27-2002. Organization of Board
- §27-2003. Expenditures for Services
- §27-2004. Hearings
- §27-2005. Jurisdiction
- §27-2006. Judicial Remedies
- §27-2007. Functions
- §27-2008. Appeals

**PART 21**

**CONDITIONAL USE**

§27-2101. Conditional Uses

## **PART 22**

### **ADMINISTRATION AND ENFORCEMENT**

- §27-2201. Zoning Officer
- §27-2202. Permits
- §27-2203. Building Permits, Certificates of Occupancy and Driveway Permits
- §27-2204. Zoning Permit
- §27-2205. Temporary Use Permit
- §27-2206. Time Limitations for Permits
- §27-2207. Permit Application
- §27-2208. Fees
- §27-2209. Violations
- §27-2210. Enforcement Remedies

## **PART 23**

### **AMENDMENTS**

- §27-2301. Powers
- §27-2302. Definitions
- §27-2303. Initiation of Amendments
- §27-2304. Hearings
- §27-2305. Landowner Curative Amendments
- §27-2306. Township Curative Amendment

## **PART 24**

### **APPENDICES**

Appendix A. Wellhead Protection Zones Plan

**PART 1****PURPOSES, SCOPE, INTERPRETATION, SHORT TITLE****§27-101. Short Title.**

This Chapter shall be known and may be cited as “The Oley Township Zoning Ordinance”.

**§27-102. Statement of Community Objectives.**

This Chapter is enacted for the purpose of implementing and promoting the community development objectives set forth in the April 2009 Joint Comprehensive Plan for Alsace, Oley, and Ruscombmanor Townships, and adopted by the Board of Supervisors of Oley Township. These objectives are as follows:

- A. Minimize impediments to, and continue to support, existing farming operations in order to make possible the continuation of farming as the Township’s primary economic activity.
- B. Direct new nonagricultural development away from agricultural areas in order to avoid the conversion of agricultural land to other uses.
- C. Protect the Township’s most sensitive and vital natural features, including its exceptional scenic resources, against the potentially negative impacts of inappropriate land development.
- D. Minimize the impact new development has on the Township historic resources, and foster public education and private actions for historic resource protection.
- E. Provide opportunities for a reasonable mix of land use types consistent with the traditional land use pattern in the Township.
- F. Manage, control, and guide development to areas of the Township or region where public infrastructure and community facilities are available or planned. Minimize the consumption of land by promoting efficient development patterns that retain the Township’s existing rural character.
- G. Direct compatible development to the Village of Oley while discouraging linear development along the Township’s collector roads.
- H. Provide for the use of renewable energy systems to accommodate residents and business owners who wish to utilize the renewable energy generated by such systems and to reduce the carbon footprint of properties.



**§27-103. Scope.**

From and after the effective date of this Chapter, the use of all land and the use, height, area and yard requirements of every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in Oley Township shall be in conformity with the provisions of this Chapter. Any lawfully existing building or structure and any lawfully existing use of a building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming but may be continued or changed subject to the special regulations herein provided with respect to nonconforming buildings or uses (see §27-1601).

**§27-104. Interpretation.**

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties. Where this Chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this Chapter shall govern.

**§27-105. Validity and Severability.**

If any portion or provision of this Ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, that holding shall only affect that portion or provision of the Ordinance. All other portions and provisions shall be held as valid and enforceable.

**§27-106. Repealer.**

The provisions of Chapter 27 (Zoning) of the Oley Township Code of Ordinances, as amended, to the extent that they are inconsistent with the provisions of this Ordinance, are repealed in their entirety.

**§27-107. Effective Date.**

The effective date of this Ordinance is October 19, 2013, except that with respect to the subject matter of any amendment as it may affect the nonconforming uses, or otherwise, the effective date of this Ordinance shall mean the date upon which the particular amendment became or becomes effective.

*(Ord. 2013-362, 10/14/2013, §1)*

**PART 2**  
**DEFINITIONS**

**§27-201. General.**

For the purpose of this Chapter, certain terms and words are herewith defined as follows. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; and the word “shall” is mandatory and not directory.

**§27-202. Definitions.**

Unless otherwise expressly stated, the following words shall be construed throughout this Chapter to have the meanings indicated in this Section below:

**ACCESSORY BUILDING** - A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal buildings.

**ACCESSORY USE** - A subordinate use of a portion of a lot which is customarily incidental to the main or principal use of the land or of a building on a lot.

**ADULT ARCADE** - Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”.

**ADULT-ORIENTED ESTABLISHMENTS**

- A. **ADULT BOOKSTORE** – An establishment having a substantial or significant portion of its stock and trade in, or an establishment which, as one of its principal business purposes, offers for sale, books, films, video cassettes or magazines and other periodicals, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and, in conjunction therewith, has facilities for the presentation of adult entertainment for observation by patrons.
- B. **ADULT CABARET** – A cabaret, tavern, theater or club which features strippers, male or female impersonators or similar entertainers who exhibit, display or engage nudity, sexual conduct or sadomasochistic abuse.

- C. **ADULT MINI-MOTION PICTURE THEATER** – An enclosed building with a capacity of less than fifty (50) persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- D. **ADULT THEATER** – An enclosed building with a capacity of fifty (50) or more persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- E. **ADULT USE EMPLOYEE** - A person who performs any service on the premises of a sexually oriented business on a full-time, part time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for the repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- F. **ADULT-ORIENTED ESTABLISHMENT** – The term includes, without limitation, the following establishments when operated for profit, whether direct or indirect:
- (1) Adult bookstores.
  - (2) Adult motion picture theaters.
  - (3) Adult mini-motion picture theaters.
  - (4) Any premises to which the public, patrons or members are invited or admitted, and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or where an entertainer provides adult entertainment to a member of the public, a patron or a member.
  - (5) An adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

The term “booths, cubicles, rooms, studios, compartments or stalls”, for purposes of defining adult-oriented establishments, does not mean enclosures which are private offices used by the owner, manager or persons employed on

the premises for attending to the tasks of their employment, and which are not held out to the public for the purpose of viewing motion pictures or other entertainment for a fee, and which are not open to any persons other than employees.

- G. **NUDE MODEL STUDIO** - Any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation, a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation, or in a structure:
- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and,
  - (2) Where, in order to participate in a class, a student must enroll at least 3 days in advance of the class; and
  - (3) Where no more than one nude or semi-nude model is on the premises at any one time.
- H. **NUDITY OR A STATE OF NUDITY** - The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.
- I. **SEMI-NUDE OR IN A SEMI-NUDE CONDITION** - The state of dress in which clothing partially or opaquely covers “specified anatomical areas”.
- J. **SEXUAL ENCOUNTER CENTER** - A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
- K. **SEXUALLY ORIENTED BUSINESS** - An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture

theater, adult theater, escort agency, nude model studio or sexual encounter center.

L. **SPECIFIED ANATOMICAL AREAS** - Human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely covered.

M. **SPECIFIED SEXUAL ACTIVITIES** - Any of the following:

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

**AGE QUALIFIED RESIDENTIAL COMMUNITY** - A residential community consisting of single- family detached dwellings which shall be permanently occupied by no more than four (4) persons, at least one (1) of whom shall be fifty-five (55) years of age or older; and further, providing that no persons under the age of eighteen (18) shall permanently occupy a dwelling except during summer months or during holidays.

**AGRICULTURE** - The cultivation of the soil and the raising and harvesting of the products of the soil including, but not limited to, nursery, horticulture, silvicultural, aquiculture, mushroom culture and animal husbandry.

**AGRITAINMENT** – An accessory use not customarily associated with an Agriculture use, but that which retains a nexus to the agricultural operation that serves the property as a principal use. Agritainment shall be incidental to the principal agricultural operation, and shall be located on the same parcel or an adjacent parcel owned by the same person(s) or a member(s) of their immediate family (spouse, sibling, child, grandchild, parent, grandparent) including those owned, in whole or in part, by entities (corporations, LLCs, partnerships) controlled by the operator of the agricultural operation and the immediate family members thereof, including associated off-street parking areas on those properties.

Activities conducted on an agricultural operation that are offered to the public or invited groups for the primary purpose of providing entertainment and/or recreation experiences. Examples of these activities include, but are not limited to: agricultural seasonal fairs/festivals, children’s activities, corn and crop mazes, petting zoos, haunted activities, company picnics, weddings, lawn games, hot-air balloon rides, bounce pillows, bouncy ball, football, basketball or baseball toss, corn or other items at targets, yoga and other fitness activities, including distance runs/races, slides, mini-golf, ladder golf, duck races, sand pit, spider web, tether ball

stationary target paintball, non-motorized vehicles (e.g. pedal carts) and other activities that combine an agricultural setting with entertaining or recreational activities, including Agritourism activities.

Notwithstanding the preceding paragraph, Agritainment shall not include automated rides, carnivals, circuses, rodeos, year-round fairs and festivals, games of chance, gasoline powered motorized go-carts or other gasoline motorized racing vehicles, off-road vehicle driving areas, guns and firearms shooting ranges, paint ball (excluding target ranges), catering/providing hot or cold meals and/or refreshments for off-site consumption for a fee), air or propane cannons, shooting apples or other fruit, dog parks, flea markets, organized sporting events and tournaments, laser tag, flashlight tag, golf courses, golf driving ranges, zip-lining courses and canopy tours (excluding zip lines of minimal height and distance strictly intended for children), swimming pools, water slides and areas, amusement or theme park activities, ticketed or paid admission live or recorded amplified outdoor music concerts or theatrical performances (excluding strolling characters or “haunted characters”), any drive-through use, or any use similar to these prohibited uses, regardless of any agricultural theming, elements or connections.

**AGRITOURISM** – An accessory use customarily associated with an Agriculture use and incidental to it located on the same parcel as the principal Agriculture use or an adjacent parcel owned by the same person(s) or a member(s) of their immediate family (spouse, sibling, child, grandchild, parent, grandparent), including those owned, in whole or in part, by entities (corporations, LLCs, partnerships) controlled by the operator of the agricultural operation and the immediate family members thereof, including associated off-street parking areas on those properties.

Activities conducted on an agricultural operation that are offered to the public or invited groups for the purpose of providing direct sales, educational, entertainment and/or recreation experiences. Examples of these activities include, but are not limited to:

- A. Farm markets, Christmas tree farms/cut your own, pick your own/direct commercial sale operations, food and drink sampling, sales and concessions, ice cream shops/bakeries, farm dining, breweries, cideries, distilleries, wineries and other activities that directly market agricultural commodities produced by the farmer in their natural or manufactured state and as permitted and protected under the Right to Farm Act.
- B. Farm tours, seminars, interactive animal displays, youth camps, school tours, farm-related museums, garden/nursery tours, winery, brewery, cidery and distillery tastings; tasting events and tours, background music (non-paid admission), agricultural exhibits/tours, rides pulled by a tractor or other farm equipment, including hayrides and wagon rides, crop identification programs, nutritional programs, culinary exhibits, display gardens, cooking contests and other activities that involve bringing people to a farm to provide education about farming, food production and farm life.

- C. Notwithstanding the preceding paragraph, Agritourism shall not include those uses either permitted or prohibited under the definition of Agritainment.

**ALLEY** - A minor vehicular right-of-way, public or private, which provides a secondary vehicular access to the side or rear of two or more properties which otherwise front on a public or private street. Not a street as defined in this Part.

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

**AMATEUR RADIO** - (Also called ham radio) means the use of designated radio frequency spectra for purposes of private recreation, non-commercial exchange of messages, wireless experimentation, self-training and emergency communication.

**ANIMAL HUSBANDRY** – The raising and keeping of livestock, poultry, fur-bearing animals, bees, etc., for any commercial purpose, and all structures associated with any of these activities. The keeping of livestock or poultry as farm pets or for domestic purposes shall not be construed as animal husbandry.

**APARTMENT BUILDING** - See “dwelling”.

**APPLICABLE CODES** – Any of the following:

- A. Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization and subsequently adopted by the Township, inclusive of any local amendments adopted specifically by the Township.
- B. Zoning, land use, streets and sidewalks, rights-of-way and permitting Ordinances adopted by the Township as of the effective date of the Ordinance and as may be amended, from time to time, by the Township.

**BACKHAUL NETWORK** - The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers or the public switched telephone network.

**BASAL AREA** – As applicable to forestry practices, the estimated cross-sectional area of the trunks of trees (measured at DBH) within a section of forest or Woodland or of trees of specific type(s) or size(s). Basal Area is usually expressed in terms of square feet per acre.

**BASEMENT** - A story partly underground. For purposes of this Chapter a cellar is considered the same as a basement.

**BASIC STRUCTURAL ALTERATION** - Any enlargement of a building, whether by extending on any side or by increasing in height, the moving of a building from

one location to another or any change in or addition to the supporting members of a building or structure, such as bearing wall partitions, columns, beams or girders.

**BASIC USE ALTERATION** - Any change in the use or classification of a building.

**BED AND BREAKFAST** - The use and occupancy of a portion of a single or two family detached dwelling for the purpose of accommodating transient guests for rent.

**BILLBOARD** - Off-premises advertising sign consisting of either poster panels or painted bulletins with a sign area of greater than 40 square feet.

**BOARD OF SUPERVISORS OR TOWNSHIP SUPERVISORS** - Board of Supervisors of Oley Township.

**BOARD OR ZONING HEARING BOARD** - Zoning Hearing Board of Oley Township.

**BUILDING** - A structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, a process, equipment or goods or materials of any kind or nature.

**BUILDING AREA** - The aggregate of the maximum horizontal cross section areas of all buildings on a lot, including cornices, eaves, gutters or chimneys, steps, one-story open porches, bay windows, breeze ways and balconies.

**BUILDING COVERAGE** - The percentage of a lot covered by buildings as defined in this Chapter.

**BUILDING INSPECTOR** - The Building Inspector of Oley Township.

**BUILDING LINE** - The line parallel to the street line at a distance therefrom equal to the minimum depth of the required front yard.

**CABLE FACILITY** – Buildings, other structures and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term “cable system” shall have the meaning given to it in Section 602(6) of the Cable Communications Policy Act of 1984 [P.L. 98-549, 47 U.S.C. § 522(7)].

**CAREGIVER** – The individual designated by a patient to deliver Medical Marijuana.

**CARTWAY (ROADWAY)** - The portion of a street right-of-way, paved or unpaved, intended for vehicular use.

**CATTLE** - Domesticated quadrupeds held as property or raised for use. For the purposes of this Chapter, cattle shall include, but not be limited to, cows, sheep, oxen, goats and pigs.



**CELLAR** - See “basement”.

**CERTIFIED MEDICAL USE** – The acquisition, possession, use or transportation of Medical Marijuana by a patient, or the acquisition, possession, delivery, transportation or administration of Medical Marijuana by a caregiver, for use as part of the treatment of the patient’s serious medical condition, as authorized by certification by the Commonwealth pursuant to the Act.

**CLEARCUTTING** – The removal of all trees greater than 12 inches DBH on a site, or any portion thereof, greater than one-half acre in contiguous area, during a single Timber Harvesting Operation or within a three year period.

**CLINICAL REGISTRANT** – An entity that:

- (1) Holds a permit both as a Grower/Processor and a Dispensary pursuant to the Act; and,
- (2) Has a contractual relationship with an Academic Clinical Research Center under which the Academic Clinical Research Center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

**CO-LOCATION** - The mounting of one or more Communications Antenna on an existing Communications Tower, or on any structure that already supports at least one Communications Antenna, including the mounting of Small Wireless Facility(ies) on existing utility poles or Small Wireless Facility poles.

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

**COMMON OPEN SPACE** - A parcel or parcels of land or an area of water or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas and areas set aside for public facilities.

**COMMONWEALTH** – Shall mean the Commonwealth of Pennsylvania.

**COMMUNICATIONS ANTENNA (ANTENNA)** - Any system of wires, rods, discs, panels, flat panels, dishes, whips or other similar devices used for the transmission or reception of wireless signals, which may include an omnidirectional Antenna

(rod), directional Antenna (panel), parabolic Antenna (disc) or any other wireless Antenna, including Small Wireless Facility(ies). Communications Antenna further includes, but is not limited to, Related Equipment. Communications Antenna shall not include support structures for Antenna or any Related Equipment that is mounted to the ground or at ground-level. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment, including, without limitation, AM or citizen band radio antennas.

**COMMUNICATIONS FACILITY** – A set of equipment and network components, including wires and cables and associated facilities, used by a Communication Service Provider to provide a Communications Service.

**COMMUNICATIONS SERVICE PROVIDER** – Any of the following:

- A. A cable operator as defined in Section 602(4) of the Cable Communications Policy Act of 1984 [P.L. 98-549, 47 U.S.C. § 522(5)].
- B. A provider of information service as defined in Section 3(20) of the Communications Act of 1934 [48 Stat. 1064, 47 U.S.C. § 153(51)].
- C. A telecommunications carrier as defined in Section 3(44) of the Communications Act of 1934 [48 Stat. 1064, 47 U.S.C. § 153(51)].
- D. A Wireless Provider.

**COMMUNICATIONS TOWER** - Any structure that is used for the purpose of supporting one or more Antenna, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. DAS hub facilities are considered to be Communications Towers. Small Wireless Support Structures are not considered Communications Towers.

**COMPREHENSIVE PLAN** - The 2009 Oley, Alsace, and Ruscombmanor Regional Comprehensive Plan, adopted as the official comprehensive plan of the Oley Township Board of Supervisors.

**CONDITIONAL USE** – A use which may be approved or denied by the Board of Supervisors after recommendations are provided by the Planning Commission, in accordance with the standards and criteria set forth in this Ordinance.

**CONDOMINIUM** - An estate in real property consisting of an undivided interest in a portion of a parcel together with a separate interest in a space within a structure. Apartments and townhouses are permitted to be held as condominiums, subject to all requirements of the Commonwealth of Pennsylvania.

**CORNER LOT** - A lot fronting on two intersecting streets, roads or highways.

**COUNTY PLANNING COMMISSION** - Berks County Planning Commission.

**DECISION** - Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Berks County.

**DECORATIVE POLE** – A Township Pole that is specially designed and placed for aesthetic purposes.

**DEPARTMENT OF HEALTH** – The Department of Health of the Commonwealth of Pennsylvania (“DOH”).

**DESIGN MANUAL** – A manual or guidebook that sets forth additional reasonable and non-discriminatory aesthetic, design, concealment, and stealth technology requirements applicable to the installation of Small Wireless Facilities, as may be amended from time to time by the Township by Resolution of the Board of Supervisors. The Design Manual may also, but need not, set forth examples of Small Wireless Facility deployments that the Township deems to comply with the Ordinance.

**DIAMETER AT BREAST HEIGHT (DBH)** – The diameter of a tree trunk, measured at four and one-half feet from the ground surface at the point of the highest elevation in contact with the trunk of such tree.

**DIRECT ACCESS** - The ability to gain ingress to and egress from a lot without traversing any other property. Direct access is achieved at a point where the lot being accessed abuts the street line.

**DISPENSARY** – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a current and valid permit issued by the DOH of the Commonwealth to dispense Medical Marijuana pursuant to the provisions of the Act.

**DISPENSARY FACILITY** – Any building or structure used to dispense Medical Marijuana by a licensed Dispensary.

**DISTRIBUTED ANTENNA SYSTEMS (DAS)** - Network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

**DISTRICT OR ZONING DISTRICT** - An area including all buildings and lots within certain designated boundaries, as indicated on the Zoning Map.

**DOG** - A member of the canine species which has reached the age of 6 months.

**DWELLING** -

A. **MULTIPLE FAMILY DWELLING** - A building arranged, designed and intended for three or more dwelling units and which includes the following

housing types:

- (1) **APARTMENT BUILDING** - A building on a single lot arranged, intended or designed to be occupied as a residence for three or more families, and in which the dwelling units may be separated horizontally and/or vertically, but which does fall within the definition of a townhouse.
  - (2) **TOWNHOUSE** - A building arranged, intended or designed to be occupied exclusively as a group of three or more such dwelling units, placed side by side and separated by unpierced party walls, each dwelling having at least one separate entrance from the outside.
- B. SINGLE FAMILY DETACHED DWELLING** - A building arranged, intended or designed to be occupied exclusively as a residence for one family and having no party wall with an adjacent building. The term “single family detached dwelling” shall be deemed to include factory built “modular home” placed on a permanent perimeter foundation and “mobile home”.
- (1) **MOBILE HOME** - A transportable, single-family detached dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation. Mobile homes shall be constructed in accordance with Safety and Construction Standards of the U.S. Department of Housing and Urban Development. The term “mobile home” shall not be deemed to include “recreation vehicle” nor a “modular home” placed on a permanent perimeter foundation.
  - (2) **MODULAR HOME (DEFINED BY THE PENNSYLVANIA INDUSTRIALIZED HOUSING ACT/ACT 70)** - Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site, housing units defined as mobile homes are excluded from this definition.
- C. SINGLE-FAMILY SEMIDETACHED DWELLING** - A building arranged, intended or designed to be occupied exclusively as a resident for two families, one family living on each side of a party wall.
- D. TWO-FAMILY DETACHED DWELLING** - A building arranged, intended or designed to be occupied exclusively as a resident for two families, with one family living wholly or partly over the other and with no party wall with an adjacent building.

**DWELLING UNIT** - A building or portion thereof providing one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit and having no cooking or sanitary facilities in common with any other dwelling unit.

**ELECTRIC SUBSTATION** - An assemblage of equipment for purposes other than separation or utilization, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of the general public.

**EMERGENCY** - A condition that: (1) constitutes a clear and immediate danger to the health, welfare or safety of the public; or, (2) has caused or is likely to cause facilities in the Rights-of-Way to be unusable and result in loss of the services provided.

**EMPLOYEE** - A person who performs any service on the premises of a sexually oriented business on a full-time, part time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for the repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**ESCORT** - A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY** - A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

**ESTABLISHMENT** - Any of the following:

- A. The opening or commencement of any sexually oriented business as a new business.
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or,
- D. The relocation of any sexually oriented business.

**FAA** - The Federal Aviation Administration.

**FAMILY -**

- A. One or more persons, related by blood, marriage or adoption, with not more than two borders, roomers or lodgers, living together as a single housekeeping unit and using cooking facilities and certain rooms in common.
- B. Not more than five persons not related by blood, marriage or adoption living together as a single housekeeping unit and using cooking facilities and certain rooms in common.

**FARM** - A tract of land containing at least 75 acres which is used in the raising of agricultural crops, fruit, livestock, poultry, fish, bees, dairy products or timber and the necessary accessory uses for packing, treating or storing the produce and improved with a single-family dwelling, barns, sheds and/or other farm buildings or structures normally utilized for housing and feeding farm animals and storing farm equipment.

**FARM BUILDING** - A barn, silo or any building used for storing agricultural equipment or farm produce or products, for housing livestock or poultry or for processing dairy products. The term "farm building" shall not include a dwelling.

**FCC** - The Federal Communications Commission.

**FLAG LOT** - A lot which conforms in all respects to the dimensional requirements of the AP - Agricultural Preservation Zoning District, except that the only road frontage and access is limited to an access strip.

**FOREST** – Any area defined as "Woodland" herein.

**FOREST CANOPY** – The aerial cover formed within any Woodland area by the crowns of trees greater than 50 feet in height.

**FOREST CANOPY TREES** – The individual trees which collectively form the Forest Canopy.

**FOREST INTERIOR HABITAT** – Forest Interior Habitat is that portion of a forest or Woodland which lies beyond most of the influences which degrade a forest from the outside - influences such as light, wind, noise and non-native species. Forest Interior Habitat provides the best habitat for certain rare and sensitive species, and can be referred to as the "deep" woods or the "heart of the forest". Forest Interior Habitat is defined as any area meeting the definition of Woodland which is located more than 300 feet from the outermost drip line of all trees along the edge of the subject Woodland area.

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

**FORM OF MEDICAL MARIJUANA** – The characteristics of the Medical Marijuana recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variant and quantity or percentage of Medical Marijuana or particular active ingredient.

**GEOHERMAL TERMS -**

- A. **BENTONITE** - A highly plastic, colloidal clay composed largely of the mineral montmorillonite. Used in grout to seal geothermal or other wells or boreholes after they have been drilled, bored, or otherwise excavated.
- B. **BOREHOLES** - A penetration of soil and/or rock that is augured, drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed which is generally cylindrical in shape and whose diameter is generally smaller than its depth of penetration. Used in closed vertical loop geothermal systems.
- C. **CLOSED HORIZONTAL LOOP GEOTHERMAL SYSTEM** - A type of geothermal heating and/or cooling system that consists of the following basic elements: underground loops of piping; approved, non-toxic heat transfer fluid; a heat pump; and an air distribution system. An opening is made in the Earth. A series of pipes are installed into the opening and connected to a heat exchange system in the building. The pipes form a closed loop and are filled with a heat transfer fluid. The heat transfer fluid is potable or beneficial reuse water and may have approved non-toxic antifreeze, such as propylene glycol, added. The fluid is circulated through the piping from the opening into the heat exchanger and back. The system functions in the same manner as the open-loop system except there is no pumping of groundwater.
- D. **CLOSED VERTICAL LOOP GEOTHERMAL SYSTEM** - A type of geothermal heating and/or cooling system that utilizes a pressurized heat exchanger consisting of pipe, a circulating pump, and a water-source heat pump in which the heat transfer fluid is not exposed to the atmosphere. The heat transfer fluid is potable or beneficial reuse water and may have approved non-toxic antifreeze, such as propylene glycol, added.
- E. **GEOHERMAL 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.
- F. **GROUT** - Neat cement, cement plus bentonite, bentonite, bentonite plus silica sand, or other low-permeability sealing material. Grout is to be mixed and applied according to manufacturer's specifications (e.g., water content and viscosity) for use in grouting (i.e., sealing) wells and/or geothermal boreholes.
- G. **OPEN HORIZONTAL LOOP GEOTHERMAL SYSTEM** - A type of geothermal heating and/or cooling system that utilizes a water-supply well,

or other source, and a pump to deliver groundwater to a heat exchanger. The discharge water from the heat exchanger may be returned to the subsurface through a recharge well or infiltration bed, or may be discharged into a pond, lake, or stream.

**GROWER/PROCESSOR** – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a current and valid permit from the DOH to grow and process Medical Marijuana in the Commonwealth, pursuant to the provisions of the Act.

**GROWER/PROCESSOR FACILITY** – Any building or structure used to grow Medical Marijuana by a licensed Grower/Processor that has a current and valid license from the DOH pursuant to the Act.

**HARB** – Historic Architectural Review Board.

**HAZARDOUS MATERIALS** – Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant actual or potential hazard to water supplies, or other hazards to human health, if such substance or mixture were discharged into land or waters of the Township. Hazardous materials include, without limitation, organic and inorganic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, petroleum solvents, thinners and fertilizers. More specifically, hazardous materials, as defined herein, are those substances listed on the Hazardous Substance List, Chapter 323 of the Pennsylvania Code, including the automatic additions referenced in Chapter 323.

**HEIGHT OF BUILDING** - The vertical distance measured from the mean level of the surrounding ground shall be determined by averaging the height of the ground adjacent to the left and right corners of the front of the building. The highest point of the building shall not include isolated vertical projections such as chimneys, spires, penthouses for elevators and tanks. No height restrictions are placed on farm buildings or farm structures.

**HEIGHT OF A COMMUNICATIONS TOWER** - The vertical distance measured from the ground level, including any base pad, to the highest point on a Communications Tower, including Antenna mounted on the tower and any other appurtenances.

**HIGHER VALUE SPECIES** – Any tree(s) of the following species where greater than or equal to 12 inches diameter at breast height (DBH):

<u>Tree, Botanical Name</u>	<u>Common Name</u>
Acer saccharium	Sugar Maple
Carya cordiformis	Bitternut Hickory
Carya glabra	Pignut Hickory
Carya ovata	Shagbark Hickory



Carya tomentosa	Mockernut Hickory
Fraxinus americana	White Ash
Juglans nigra	Eastern Black Walnut
Quercus alba	White Oak
Quercus bicolor	Swamp White Oak
Quercus coccinea	Scarlet Oak
Quercus montana	Chestnut Oak
Quercus palustris	Pin Oak
Quercus rubra	Northern Red Oak
Quercus velutina	Black Oak

**HISTORIC DISTRICT OR BUILDING** – A building that is, or a group buildings, properties or sites that are:

- A. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register of Historic Places;
- B. Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with Section IV.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 C.F.R. Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process);
- C. Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical sites and museums);
- D. Within a Historic District created pursuant to the Act of June 13, 1961 (P.L. 282, No. 167, 53 P.S. § 8001, et. seq.) entitled, “[a]n act authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivision to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alternation, restoration, demolition or razing of buildings within the historic districts.”; or,
- E. Any structure that has been designated by the Township on the Historic Building General Index Inventory to be of historical significance.

**HOME OCCUPATION** - A lawful occupation for gain or support conducted entirely within a dwelling unit or a pre-existing ancillary building. Both professional and nonprofessional home occupations must meet the home occupation regulations of this Chapter.

**HOTEL OR MOTEL** - A building or a group of buildings, specifically designed for the temporary lodging of guests and in which there is no provision made for cooking in any individual room or suite of rooms.

**IMPERVIOUS COVER or IMPERVIOUS MATERIALS** – Any surface or material which is impenetrable or unable to absorb water, including, but not limited to, buildings, structures, roof overhangs and paved areas, including parking areas, driveways, roads, sidewalks and other such areas, in concrete or asphalt. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition shall also be considered as contributing to total Impervious Cover. For purposes of determining compliance with maximum lot coverage limitations, Impervious Cover shall be measured as a percentage of Net Lot Area. A percentage of any areas comprised of Semi-Impervious Cover, such as porous paving, shall be excluded from calculation of lot coverage to an extent reasonably related to the degree to which stormwater passes through the paving material, and does not contribute to stormwater runoff, as determined by the Township Code Enforcement Officer and/or Township Engineer.

**IMPROVEMENT** - Any type of structure or paved section, excluding driveway, curb, sidewalk, planting strip or barrier to unchanneled motor vehicle entrance or exit.

**IMPROVEMENT SETBACK LINE** - A line parallel to and measured at right angles from the street line at a distance established by this Chapter. No improvements are permitted between the street line and the improvement setback line.

**INDUSTRY, LIGHT** - Industrial activities which are carried out entirely within an enclosed building and involve no outdoor processes or outdoor storage.

**INVASIVE VEGETATION** – Any plant species not native to local natural communities that grow and spread aggressively and displace native plants. Also called “exotics” and “aliens,” these species tend to reproduce prolifically and out-compete native plants for light, space and nutrients, reducing plant diversity and wildlife habitat. Invasive Vegetation includes, but is not limited to: *Rosa multiflora* (Multiflora Rose, a shrub), *Eleagnus umbellata* (Autumn Olive, a shrub), *Lonicera japonica* (Japanese Honeysuckle, a vine), *Lonicera* spp (Amur, Morrow, Bells or Tartarian honeysuckle, non-native shrubs), *Celastrus orbiculatus* (Oriental Bittersweet, a vine), *Acer platanoides* (Norway Maple, a tree), *Pyrus calleryana* (Callery pear, a tree), *Ulmus pumila* (Siberian elm, a tree), *Ampelopsis brevipedunculata* (Porcelain-berry, a vine), *Ligustrum obtusifolium* (Privet, a shrub) *Ailanthus altissima* (Tree-of-Heaven, a tree), *Viburnum plicatum* (Doublefile viburnum, a shrub) and *Polygonum perfoliatum* (Mile-a-Minute Weed, a vine).

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

**JUNK YARD** - Any place at which discarded materials or articles, including without being limited to metals or metal products, motor vehicles, machinery, equipment, glass, containers, structures, rubber, lumber, mill work, brick, stone, concrete, industrial waste and other salvageable material are or maybe salvaged or stored for reuse, resale, reduction or similar disposition.

**KENNELS** - The commercial boarding or breeding of more than three dogs on a lot.

**LAND DISTURBANCE** – Any activity which exposes soils, alters topography and/or alters vegetation. A Timber Harvesting Operation conducted in accordance with the provisions of Section 1432.8.E shall not be separately regulated as a Land Disturbance. In addition, the following activities shall not be regulated as Land Disturbance, but shall, nevertheless, be undertaken in a manner such that disturbed areas shall be stabilized with suitable vegetation and shall not be left bare:

- A. Customary agricultural practices related to the cultivation of the soil and the raising and harvesting of the products of the soil, including, but not limited to, tilling, plowing, mowing, horticultural and nursery operation, harvesting and animal husbandry;
- B. Customary landscaping practices, such as mowing, planting, trimming;
- C. Removal of hazardous or Invasive Vegetation;
- D. Removal of vegetation to permit conduct of agricultural operations.

**LEGAL RIGHT-OF-WAY** - The street right-of-way legally in the public domain at the time a plan is submitted to the Township.

**LIVESTOCK** - Animals, customarily associated with farming, kept or raised for use or pleasure, farm animals kept for use and profit.

**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, GROSS** - The total area contained within the lot lines of a lot.

**LOT AREA or LOT SIZE, MINIMUM** – Unless otherwise stated in this Chapter, and excluding farm tracts of 75 gross acres or more, the applicable minimum lot area or lot size set forth for the Zoning District in which the lot is located shall be met by the net lot area calculated for the lot.

**LOT AREA, NET** - The area contained within the lot lines of a lot, excluding any area comprising one or more of the following:

- A. The area within all legal street rights-of-way.

- B. Areas determined to be jurisdictional Wetlands. The method of determination shall be as established by the U.S. Army Corps of Engineers.
- C. Any surface or subsurface easement or right-of-way for petroleum product pipelines or transmission of electricity, communications, stormwater management, sewer or water facilities, except that utility easements for individual service connections that serve the specific lot shall not be excluded from the area.
- D. Any lake, pond, stream or stormwater management basin. The area of these shall be the area within the prescribed easement or, when no easement exists nor is proposed, the area within the basin, pond, lake or stream shall be measured to the top of its bank or berm.
- E. Floodplain areas shown on the Flood Insurance Rate Map (FIRM), including Zones A and AE, and established by elevation where flood elevations are published. The methods used to determine the extent of the floodplain shall be as described in this Chapter.
- F. Any area regulated as Steep Slope as set forth herein.
- G. An area equivalent to 40% of any area of Seasonally High Water Table Soils, not already contained in any area to be excluded.

For purposes of establishing the net lot area of the entirety of a tract planned for development in accordance with the Special Development provisions set forth in Section 27-504, future street and utility rights-of-way and future stormwater management easements or facilities shall not be excluded; however, such features shall be excluded from the calculation of net lot area for the individual lots to be subdivided within the development.

**LOT COVERAGE** - Percentage of lot covered by impervious materials (includes, but is not limited to, buildings, structures, driveways, parking areas, concrete pads, etc.).

**LOT LINE** - Any property boundary line of a lot.

**LOT WIDTH** - The distance between side lot lines. A lot shall meet the minimum lot width distance prescribed in a zoning district:

- A. At the building line.
- B. At the street line.

**MASSAGE THERAPIST** – An individual licensed by the State Board of Massage Therapy to practice massage therapy.

**MASSAGE THERAPY** – The application of a system of structured touch, pressure, movement, holding and treatment of the soft tissue manifestations of the human body by a massage therapist in which the primary intent is to enhance the health and well-being of the client without limitation, as defined in the Pennsylvania Massage Therapy Law.

**MEDICAL MARIJUANA** – Marijuana for certified medical use as legally permitted by the Commonwealth and the provisions of the Act.

**MEDICAL MARIJUANA DELIVERY VEHICLE OFFICE** – Any facility used to house delivery vehicles for supplying marijuana plants or seeds to one (1) or more Grower/Processor Facilities and/or Dispensary Facilities.

**MEDICAL MARIJUANA FACILITY** – A Dispensary Facility or a Grower/Processor Facility.

**MICRO WIRELESS FACILITY** – A Small Wireless Facility that:

- A. Does not exceed two (2) cubic feet in volume; and,
- B. Has an exterior antenna no longer than eleven (11) inches.

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

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

**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.

**MODIFICATION OR MODIFY** – The improvement, upgrade or replacement of a Small Wireless Facility or an existing Utility Pole that does not substantially change, as defined herein or as defined in 47 C.F.R. § 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the Small Wireless Facility or Utility Pole.

**MONOPOLE** – A Communications Tower or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support Communications Antenna and connecting appurtenances.

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)** – The National Environmental Policy Act of 1970, as amended, 42 U.S.C. § 4321 *et seq.*

**NATIONAL HISTORIC PRESERVATION ACT (NHPA)** – The National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300101 *et seq.* and 36 C.F.R. Part 800 *et seq.*

**NO-IMPACT HOME-BASED BUSINESS** - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with a residential use. The business or commercial activity must satisfy the following requirements:

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

**NONCONFORMING LOT** - A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

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

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

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

**NUTRIENT/MANURE MANAGEMENT PLAN** – A plan prepared by a qualified professional establishing application rates for manure/fertilizers on agricultural lands to achieve a proper balance of nutrients and minimize nutrient contamination of ground water.

**OLDFIELD** – An area undergoing natural succession characterized by the presence of herbs, shrubs and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.

**OFFICE** - A use that involves administrative, clerical, financial, governmental, professional operations or operations of a similar character. The use shall not include retail or industrial uses.

**OPEN AREA** - That portion of a lot which may not be covered by buildings or structure.

**OUTDOOR HYDRONIC HEATER** - See **OUTDOOR WOOD-FIRED BOILER**.

**OUTDOOR WOOD-FIRED BOILER (OWB)** - A fuel-burning device in which all of the following applies:

- A. It is designed to burn, or is capable of burning, one or more of the following allowed fuels:
  - (1) Clean wood;
  - (2) Wood pellets made from clean wood;
  - (3) Home heating oil, natural gas or propane that:
    - (a) Complies with all applicable sulfur limits;
    - (b) Is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers.
  - (4) Other fuel approved, in writing, by DEP.

- B. Has a rated thermal output of less than 350,000 Btu per hour.
- C. The manufacturer designs or specifies the device for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals, including structures like garages and sheds.
- D. Heats building space or a fluid, or both, through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and approved non-toxic antifreeze.

**PARKING AREA** - Outdoor parking areas used for parking of vehicles, except that off-street parking areas for a single-family or two-family detached dwelling shall not be included in this definition.

**PARKING SPACE** - A space in a garage or on a lot, used for the parking of a motor vehicle, the area of which is not less than 200 square feet and to which there is access from a street or alley.

**PARTY WALL** - Common wall between two adjoining buildings extending from the basement to the roof with no openings.

**PERMANENT FENCE** - A manmade barrier. The term “permanent fence” shall be deemed to include a wall, but does not include wire fences when used for the purpose of enclosing livestock in a given area.

**PERSON** - An individual, proprietorship, partnership, corporation, association or other legal entity.

**PERSONAL SERVICE SHOP** - An establishment that provides a service oriented to personal needs which do not involve primarily retail sales of goods or professional advisory services. Personal services include barber and beauty shops, shoe repair shops, household appliance repair shops and other similar establishments.

**PLANNING COMMISSION** - Planning Commission for Oley Township.

**PRINCIPAL BUILDING (PRINCIPAL STRUCTURE)** - The building in which a principal use on a lot is conducted. Any and all buildings or structures attached to a principal building shall be considered part of the principal building and shall conform with all requirements specified for the principal building.

**PRINCIPAL USE** - The main or primary purpose for which any land, structure or building is designed, arranged or intended, and for which they may be occupied or maintained under this Chapter.

**PRIVATE GARAGE** - An accessory building used for the storage of any number of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenant of the premises. Not more than one truck or commercial vehicle



may be stored in a private garage in a Residence District, excepting pickup trucks and vans.

**PUBLIC GARAGE** - A building, other than a private garage, used for the storage, repair or servicing of motor vehicles of any type or ownership.

**PUBLIC HEARING** - A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.

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

**PUBLIC NOTICE** - Notice published once each week for 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 30 days and the second publication shall not be less than 7 days from the date of the hearing.

**PUBLIC UTILITY TRANSMISSION TOWER** - A structure, owned and operated by a public utility, electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

**REGISTRY** – The registry established by the DOH for all Medical Marijuana organizations and practitioners in the Commonwealth pursuant to the provisions of the Act.

**RELATED EQUIPMENT** - Any piece of equipment related to, incident to, or necessary for, the operation of a Communications Tower or Communications Antenna. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.

**REPLACEMENT** – The replacement of an existing Small Wireless Facility on any existing Decorative Pole, Utility Pole, Township Pole or similar Small Wireless Facility Pole, subject to the requirements of Section 27 (Zoning) for maintenance, repair or technological advancement with equipment that is substantially similar in size, weight and height as the existing Small Wireless Facility, and which does not substantially change the physical dimensions of any Decorative Pole, Utility Pole, Township Pole or similar Small Wireless Facility Pole.

**RESTAURANT** - Any public or private establishment, located in a permanent building, where the primary business is the offering of food or drink to customers, patrons or members.

A. **DRIVE-IN RESTAURANT** - A restaurant that provides service to customers remaining seated in automobiles, either through an exterior window or service area or through service to parked automobiles.

- B. **FAST FOOD RESTAURANT** - A restaurant that principally sells food, frozen desserts and nonalcohol beverages in a ready-to-consume state, primarily in disposable containers, in bags or on trays. The customer primarily orders and receives the food at an inside counter or outdoor walk-up window without the assistance of a waiter or waitress.

**RETAIL STORE** - A permanent building in which retail merchandise is sold. A group of retail stores includes, but is not limited to, shopping centers, malls and strip malls where more than one retail store is located adjacent to or in close proximity to other retail stores and where certain facilities, such as a parking lot, may be shared.

**RIGHT-OF-WAY or ROW** - The surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than streets that are owned by the Township. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way. For the purpose of this Ordinance, ROW shall include streets and roads owned by Berks County, the Commonwealth of Pennsylvania, and any other Pennsylvania State agencies.

**RIPARIAN BUFFER** – A Riparian Buffer is an area of trees and 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. The Riparian Buffer shall be divided into two Zones:

- A. **Zone One: Inner Riparian Buffer** - This zone shall begin at each edge of any identified Wetland or Watercourse, and shall occupy a margin of land on each side, each with a minimum width of 15 feet from any Wetland or 25 feet from any Watercourse, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the applicable edge of the Wetland or, in the case of a Watercourse, to the nearest edge of the water at bankful flow. Where Steep Slopes (+15%) are located within and extend beyond such margin, Zone One shall extend to include the entirety of the Steep Slopes up to a maximum dimension of 100 feet from the subject Watercourse, or 75 feet from the subject Wetland, whichever is greater.
- B. **Zone Two: Outer Riparian Buffer** - Zone Two begins at the outer edge and on each side of any area delineated within Zone One, and occupies any additional area, if any, within 100 feet of the nearest edge of any Watercourse or 75 feet from the nearest edge of any Wetland, whichever is greater and measured as for Zone One.

**SANITARY SEWER FACILITY** - A public sanitary sewer system or a comparable common or package sanitary sewer facility approved by the appropriate governmental health agency.

**SEASONALLY HIGH WATER TABLE SOILS** – Any soil inventoried or described as hydric or as a soil with a seasonally high water table in the Soil Survey of Berks County, Pennsylvania, or other information provided by the U.S. Natural Resources Conservation Service (NRCS), or which physically exhibits redoximorphic (mottling) features within 18 inches of the ground surface at certain times of the year. Where such soils are regulated as Wetland(s), the more restrictive regulation shall apply. In Oley Township, Seasonally High Water Table Soils shall include, but are not limited to:

<u>Soil Name and Slope Range</u>	<u>Symbol</u>
Brinkerton-Comly silt loams, 0 to 3 percent slopes	BtA
Brinkerton-Comly silt loams, 3 to 8 percent slopes	BtB
Comly silt loam, 0 to 3 percent slopes	CpA
Comly silt loam, 3 to 8 percent slopes	CpB
Glenville silt loam, 0 to 3 percent slopes	GnA
Glenville silt loam, 3 to 8 percent slopes	GnB
Holly silt loam	Ho
Middlebury silt loam	Me
Penlaw silt loam, 0 to 3 percent slopes	PaA
Thorndale-Penlaw silt loams, 0 to 3 percent slopes	ThA
Towhee silt loam, 0 to 3 percent slopes	ToA
Towhee silt loam, 3 to 8 percent slopes	ToB
Towhee silt loam, 0 to 8 percent slopes, very stony	TwB

Where site conditions indicate that the location of Seasonally High Water Table Soils differ from locations indicated by the NRCS, the burden shall be upon the applicant to verify such location(s) to the satisfaction of the Board of Supervisors; otherwise the NRCS information shall be presumed to be accurate. Where drainage improvements have been introduced to drain soil areas herein defined as Seasonally High Water Table Soils, such areas shall be considered Seasonally High Water Table Soils areas for the purpose of this Ordinance.

Where the applicant requests reclassification of Seasonally High Water Table Soils or adjustment of their location from that indicated by NRCS soils mapping, such request shall be supported by documentation submitted by a Certified Soil Scientist or other similarly qualified professional. Such documentation shall verify that soils investigations have been undertaken as described herein and observed in the field by the Township Engineer. Test pits shall be excavated at 50 foot intervals along the length of the boundary of the Seasonally High Water Table Soils, based on the locations indicated by NRCS soils mapping, both within and outside of the Seasonally High Water Table Soils. A written soil log shall be required for each test pit. A map shall be required showing the surveyed location of each test pit, as well

as an identification number. A written report, prepared by a qualified professional, compiling the written logs, mapping and a summary of the delineated Seasonally High Water Table Soils area shall also be required. The Township Engineer shall review the report to determine compliance with the Zoning Ordinance and other applicable Ordinances, and issue a review letter to the Township.

**SELECTIVE CUTTING** – The felling of certain, but not all trees, in an area for the purpose of removing dead, diseased, damaged, mature or marketable timber or for improving the quality of a tree stand.

**SELF-SERVICE STORAGE FACILITY** – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations or businesses for self-service storage of personal property.

**SEMI-IMPERVIOUS COVER or SEMI-IMPERVIOUS MATERIALS** – Any surface or material which is partially penetrable or able to absorb water, including, but not limited to, areas paved with stone, gravel, sand, paver block or other porous paving material, as determined by the Township Code Enforcement Officer and/or Township Engineer. A percentage of any areas comprised of Semi-Impervious Cover shall be included in calculation of Impervious Cover to an extent reasonably related to the degree to which stormwater does not pass through the semi-impervious material and thereby contributes to stormwater runoff, as determined by the Township Code Enforcement Officer and/or Township Engineer, as applicable.

**SIGN** - Any structure or part thereof, wall or other outdoor surface, including stationary vehicles/trailers used for advertising purposes, which displays or includes any letter, word, model, banner, flag, pennant, insignia or other representation used for announcements, directions, information or attractions.

**SINGLE AND SEPARATE OWNERSHIP** - The ownership of a lot by one or more persons, partnerships or corporations, which ownership is separate and distinct from that of any adjoining lot.

**SMALL WIRELESS FACILITY(IES)** – The equipment and network components, including antennas, transmitters and receivers, used by a Wireless Provider that meet the following qualifications:

- A. Each antenna associated with the deployment is no more than three (3) cubic feet in volume.
- B. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than twenty-eight (28) cubic feet. Any equipment used solely for the concealment of the Small Wireless Facility shall not be included in the calculation of equipment volume pursuant to this paragraph.

**SMALL WIRELESS FACILITY(IES) APPLICATION** – A request submitted by an Applicant to the Township:

- A. For a permit to co-locate Small Wireless Facilities; or,
- B. To approve the installation, modification, or replacement of a Small Wireless Facility Pole.

**SMALL WIRELESS FACILITIES DEPLOYMENT ACT** – The Act of June 30, 2021, P.L. 232, No. 50, codified at 53 P.S. §§ 11704.1-11704.11, as amended, also known as Pennsylvania Act 50 of 2021.

**SMALL WIRELESS FACILITY POLE** – A freestanding structure or other structure not classified as a wireless support structure that could support the placement or installation of Small Wireless Facility(ies) if approved by the Township.

**SMALL WIRELESS SUPPORT STRUCTURE** – A support structure that is used for the deployment of one or more Small Wireless Facilities, including, but not limited to, Decorative Poles, Small Wireless Facility Poles, Township Poles, or Utility Poles and is not otherwise considered a Communications Support Structure as defined herein.

**SOLAR ACCESS** – The access of a Solar Energy System to direct sunlight.

**SOLAR EASEMENT** – A legal agreement that protects access to sunlight on a property.

**SOLAR ENERGY SYSTEM** – Any area of land or other area used for solar collector panel(s), film(s), shingle(s) or other solar energy device(s), or structural solar component(s), including other appurtenant structures and facilities, whose primary purpose is to provide for the collection, storage and distribution of solar or radiant energy received from the sun and used for heating or cooling, or for water heating and/or for generation of electricity. A solar energy system consists of one (1) or more free-standing ground, or roof mounted solar arrays or modules, or other solar related equipment, and is intended to primarily reduce on-site consumption of utility power or fuels.

**SPECIAL EXCEPTION** - A use permitted in a particular zoning district pursuant to the provisions of Part 17 of this Chapter.

**STACK** – Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a furnace or other fuel-burning device, especially that part of a structure extending above a roof.

**STEALTH TECHNOLOGY** - Camouflaging methods applied to wireless communications towers, Antenna and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted

Antenna, building-mounted Antenna painted to match the existing structure, and facilities constructed to resemble trees, shrubs and light poles.

**STEEP SLOPE(S)** – Those areas of land where the grade is 15% or greater. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive two foot contour lines and expressed as a percent. Slope measurements shall be based on contour intervals determined by detailed topographical survey using aerial photogrammetry or actual field survey, and shall be signed and sealed by a Registered Surveyor or Engineer licensed to practice in the Commonwealth of Pennsylvania. The regulations set forth in this Ordinance shall only apply to areas of 1,500 square feet or greater, and where slopes of 15% or greater are measured over three or more contiguous two foot contour intervals (six cumulative vertical feet of slope).

**STEEP SLOPE MARGIN** – Any area not otherwise regulated as Steep Slope and located within 25 feet upslope of any area regulated as Steep Slope, measured perpendicularly to the contour of the land. Areas measured laterally or downslope of Steep Slope areas shall not be regulated as Steep Slope Margin.

**STREET** - A public or private right-of-way intended as a means of vehicular and pedestrian travel, furnishing access to at least two abutting properties. The term “street” includes road, avenue, drive, court, lane, parkway, boulevard, expressway, highway and similar terms, except that the term “street” does not include alley.

**STREET LINE** - The dividing line between a lot and the outside boundary of the right-of-way of a street. Where a future or ultimate right-of-way width for a street has been established, the street line shall be the line of such future right-of-way.

**STREET, PRIVATE** - A street through which certain private parties have the right of vehicular access in accordance with recorded easements, easements by prescription or other legal instruments. Not a public street.

**STREET, PUBLIC** - A street maintained by the State, Township or County intended for public vehicular or pedestrian access. Not a private street.

**STRUCTURE** - Any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

**SUBSTANTIALLY CHANGE** – For all Wireless Support Structures, except Small Wireless Support Structures: (1) any increase in the height of a Wireless Support Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth in the WBCA or the Oley Township Zoning Ordinance if necessary to avoid interference with existing antenna; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

**SUBSTANTIALLY CHANGE, SMALL WIRELESS FACILITY(IES)** – A modification substantially changes the physical dimensions of a Small Wireless Facility or its Small Wireless Facility Pole if it meets any of the following criteria:

- A. For any Decorative Pole, Utility Pole, Township Pole or similar Small Wireless Facility Pole, an increase in its height by more than 10%; provided the height is not increased more than the maximum height provided in this Chapter. Changes in height are measured from the height originally approved at the time of the issuance of a permit pursuant to this Chapter.
- B. The addition of any appurtenance to the body of the Decorative Pole, Utility Pole, Township Pole, or similar Small Wireless Support Structure that would protrude from its edge more than the 10% from the horizontal dimensions originally approved at the time of the issuance of a permit pursuant to this Chapter.
- C. The installation of additional equipment associated with the Small Wireless Facility not otherwise approved at the time of the issuance of a permit pursuant to this Chapter.
- D. Any excavation, deployment, or installation beyond the footprint of any existing Small Wireless Facility permitted pursuant to this Chapter.
- E. Any changes that would defeat the concealment elements for a Small Wireless Facility located in a Historic District or on a Historic Building.
- F. Any change that does not comply with the terms of a permit issued pursuant to this Chapter.

**TECHNICALLY FEASIBLE** – By virtue of engineering or spectrum usage, the proposed placement for a Small Wireless Facility or its design or site location can be implemented without a material reduction in the functionality of the Small Wireless Facility.

**TELECOMMUNICATIONS ACT (TCA)** – The Telecommunications Act of 1996, as amended, 47 U.S.C. § 332 (c).

**TIMBER HARVESTING OPERATION** – The cutting, uprooting or removal of more than 20 trees total of 12 inches or greater DBH from any area of Woodland, whether accomplished in a single operation or in more than one operation over three or fewer years. The removal of trees pursuant to an approved Subdivision or Land Development Plan or Landscape Plan, the removal of dead or diseased trees or Invasive Vegetation, and the cutting or removal of trees as part of a Christmas tree farming or nursery operation shall not be considered Timber Harvesting Operations. Forestry, as defined by the Pennsylvania Municipalities Planning Code, as amended, shall be considered a Timber Harvesting Operation.

**TIMBER HARVESTING PLAN** – A Plan submitted in conformance with the provisions set forth in Subsection 1631 which describes, by means of text and maps, proposed actions involving the removal of trees from a tract of land. Such Plan shall have been prepared by a professional with demonstrable expertise in forest management, and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, land areas, and the tree removal process; and ensure site restoration.

**TOWNSHIP** – The Township of Oley.

**TOWNSHIP POLE** – A Utility Pole owned, managed, or operated by or on behalf of the Township.

**TRACT** - All land which was owned by the same owner or owners on January 1, 1992 and is contiguous. Land shall be considered contiguous even though separated by public or private roads.

**ULTIMATE RIGHT-OF-WAY** - The street right-of-way projected as potentially necessary for adequate handling of anticipated maximum traffic volumes. Ultimate rights-of-way are established in the Subdivision and Land Development Ordinance [Chapter 22].

**UNDERGROUND DISTRICTS** – Any existing or future district, area, group of buildings, development, properties, or sites in which the Township has required all communications and electric utilities in the specified geographic area to be placed underground and for which the Township maintains and enforces objective standards that are published in advance and applied on a uniform and non-discriminatory basis.

**UTILITY FACILITY** – Buildings or other structures and equipment owned or operated by a public utility as defined in 66 Pa.C.S. § 102 (relating to definitions), to provide service.

**UTILITY POLE** – A pole or similar structure that is, or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for co-location. The term includes the vertical support structure for traffic lights, but does not include horizontal structures to which signal lights or other traffic control devices are attached or a Communications Support Structure as defined herein.

**UTILITY-SCALE ENERGY SYSTEM** – Any commercially-sized or –scaled renewable energy system regulated herein; e.g., the System is the principal use on the property and the energy produced is sent back to the regional transmission grid, or it produces energy in excess of one-hundred twenty-five (125) percent of the energy needed by the property's principal use.

**VARIANCE** - Relief granted pursuant to the provisions of Article XVII of this Chapter.



**WATERCOURSE** – A Watercourse is a channel or conveyance of surface water having defined bed and banks, with perennial or intermittent flow. The definition of Watercourse shall exclude facilities constructed solely for stormwater management.

**WBCA** - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.).

**WELL HEAD PROTECTION AREA** – The surface and subsurface area surrounding a water well or well field supplying a public or community water system, through which contaminants are reasonably likely to move toward and reach a water well or well field.

**WELL HEAD PROTECTION ZONES** – One or more zones of special regulation that comprise a well head protection area within Oley Township delineated on Figure 3-1 of the 2011 Oley Township Municipal Authority Source Water Protection Plan, and further defined as Zone I and Zone II, which have been established for insuring the long-term environmental integrity of the four wells which comprise the Township’s community water system.

**WETLAND OR WETLANDS** – Wetlands are those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, ponds, lakes and similar areas. Wetlands shall include any area so delineated by the National Wetlands Inventory of the U.S. Fish and Wildlife Service and all lands regulated as wetlands by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers. In the event there is a conflict between the definitions of these agencies, the more restrictive definition shall apply.

**WIND ENERGY SYSTEM** – Any electric generation facility, whose main purpose is to convert and store wind energy into usable forms of energy, including wind turbine(s), structural supports, electrical infrastructure, and other appurtenant structures and facilities. A Wind Energy System may be free-standing (i.e., placed on the top of the ground surface) or roof-mounted. Particular types of wind energy systems include, but are not limited to:

- A. **SMALL-SCALE TURBINES**, with rotor diameters of approximately 9-15 feet, on approximately 50-85 foot tall poles;
- B. **ROOF-TOP TURBINES**, meant for installation on flat-roofed buildings such as commercial, institutional and industrial buildings, with rotors diameters of approximately 10-20 feet;
- C. **UTILITY POLE TURBINES**, with rotor diameters of 3-6 feet, and which can be mounted atop utility or light poles;

- D. **MICRO-TURBINE PANELS**, with rotors with diameter one foot or less, meant for areas with low-to-moderate wind speeds.
- E. **VERTICAL AXIS TURBINE**, with a vertically-oriented axis and blades typically, though not always, resembling an “egg beater.”

**WIND ENERGY SYSTEM HEIGHT** - The distance measured from the ground surface of the wind energy system tower base to the highest point of the extended blade tip or the highest point of the wind energy system.

**WINDMILL** - A device that runs on the energy generated by a wheel of adjustable blades or slats rotated by the wind.

**WIND TURBINE** - A device that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tail, tower and pad transformer, if any.

**WIND TURBINE TOWER** - The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

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

**WIRELESS COMMUNICATIONS FACILITY** - As follows:

- A. Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:
  - (1) Equipment associated with Wireless Services.
  - (2) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies, or comparable equipment, regardless of technological configuration.
- B. The term includes a Small Wireless Facility.
- C. The term does not include any of the following:
  - (1) The structure or improvements on, under or within which the equipment is co-located.
  - (2) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.

**WIRELESS COMMUNICATIONS FACILITY APPLICANT (APPLICANT)** - Includes, but is not limited to, any person, owner and/or their agent with an interest

in a Wireless Communication Facility, or anyone seeking a building permit, zoning approval and/or permission to use the public right-of-way or other public property for any Wireless Communications Facility.

**WIRELESS INFRASTRUCTURE PROVIDER** – A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in the Commonwealth of Pennsylvania that builds or installs wireless communication transmission equipment, wireless facilities, or a Communications Support Structure, but is not a Wireless Services Provider.

**WIRELESS PROVIDER** – A Wireless Infrastructure Provider or a Wireless Services Provider.

**WIRELESS SERVICES** – Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the Public using wireless facilities.

**WIRELESS SERVICES PROVIDER** – A person who provides Wireless Services.

**WIRELESS SUPPORT STRUCTURE** - A freestanding structure, such as a Tower-Based Wireless Communications Facility or any other support structure that could support the placement or installation of a Wireless Communications Facility if approved by the Township, not including Small Wireless Facility(ies) poles.

**WOODLAND** – A tree mass or plant community covering an area of one-quarter acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. The extent of any Woodland plant community or any part thereof shall be measured from the outermost drip line of all the trees in such plant community. Woodland shall include any area where timber has been harvested within the previous three years and/or Woodland Disturbance has occurred within the previous three years which would have met the definition of Woodland prior to timbering or disturbance. Woodlands do not include orchards or old fields. A Woodland can also be termed a “forest”.

#### **WOODLAND DISTURBANCE**

- A. Any activity which alters the existing structure of a Woodland. Alterations include the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, woody and herbaceous Woodland floor species, as well as the removal of humus or duff from the ground;
- B. Any activity which constitutes a Land Disturbance (exposes soils, alters topography) within a Woodland, except as provided below;
- C. Woodland Disturbance does not include the following:
  - (1) Removal of vegetation which constitutes hazardous condition(s).
  - (2) Selective cutting or removal of Invasive Vegetation.

- (3) Removal of vegetation to permit conduct of agricultural operations.
- D. Where Woodland Disturbance is regulated as a Timber Harvesting Operation, such operation shall not be separately regulated as Woodland Disturbance.

**YARD** - The required open, unoccupied space on the same lot with a building, open and unobstructed from the ground upward except as otherwise provided and not less in depth or width than the minimum required in each district.

- A. **BUFFER** - A strip of land, entirely landscaped and containing a planting screen, not to be used for buildings, storage, paving, parking loading nor any other accessory or principal uses.
- B. **FRONT** - The required open space, extending into a lot, the required number of feet from the street line throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices and steps. The front yard shall be measured from the street line.
- C. **SIDE** - The required open space, extending from each side line for the required number of feet of the lot, extending from the front yard to the rear yard, exclusive of overhanging eaves, gutters, cornices and steps.
- D. **REAR** - The required open space, extending from the rear line for the required number of feet into the lot throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices and steps.

**ZONING HEARING BOARD** - Zoning Hearing Board of Oley Township.

**ZONING OFFICER** - The Building Inspector of the Township of Oley, or such other person as may be designated from time to time by the Board of Township Supervisors to administer this Chapter.

*(Ord. 2013-362, 10/14/2013, §2; as amended by Ord. 371, 05/08/2017, §3; as amended by Ord. 374, 10/09/2017, §3; as amended by Ord. 376, 10/28/2017, §§3 and 4; as amended by Ord. 384, 10/12/2020, §§1 and 2; as amended by Ord. 387, 12/12/2022, §1; as amended by Ord. 388, 12/12/2022, §§1 and 2)*

**PART 3**

**CLASSIFICATION OF DISTRICTS**

**§27-301. Classes of Districts.**

For the purposes of this Chapter, the Township of Oley is hereby divided into twelve (12) classes of districts, which shall be designated as follows:

AP	Agricultural Preservation District
RU	Rural District
RA	Residential District
RMH	Residential - Mobile Home District
AQRC	Age Qualified Residential Community District
RV	Rural Village District
HV	Historic Village District
V	Village District
LB	Local Business District
HB	Highway Business District
LIB	Light Industrial and Business District
I	Industrial District

**§27-302. Zoning Map.**

1. The boundaries of the zoning districts shall be as shown on the Zoning Map of the Township. The Zoning Map and all notations, references and data shown thereon are hereby incorporated by reference into this Chapter.
2. The official copy of the Zoning Map shall be so labeled and identified by the signature of the Chairman of the Board of Supervisors, attested by the Secretary of said Board and bear the seal of the Township under the following words:

“This is to certify that this is the official map of the Township of Oley adopted \_\_\_\_\_”.

It shall be the final authority as to the current zoning status of all areas in the Township, regardless of unofficial copies which may have been made or published from time to time.

3. The official Zoning Map shall be located in a place designated by the Township Supervisors.
4. If the official Zoning Map is amended, an entry indicating the change and the date of the change shall be made on the map and the entry shall include the signatures of the Chairman and Secretary of the Board of Supervisors.

5. In the event that the official Zoning Map becomes damaged, destroyed, lost or difficult to interpret by reason of the nature and number of changes and additions made thereon, the Board of Supervisors may by resolution adopt a new official Zoning Map which shall supersede such prior map. The new official Zoning Map may correct drafting or other errors or omissions in the prior official Zoning Map, but no such correction shall have the effect of amendment thereof. The new official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors, attested by the Secretary of said Board and bear the seal of the Township under the following words:

“This is to certify that this official Zoning Map supersedes and replaces the official Zoning Map adopted \_\_\_\_\_ as part of the Oley Township Zoning Ordinance”.

Unless the prior official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

**§27-303. District Boundaries.**

The boundaries between districts are, unless otherwise indicated, either the centerlines of streets or railroad rights-of-way 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 right-of-way line at distance therefrom equivalent to the number of feet so indicated.

**§27-304. Boundary Tolerances.**

Where a district boundary line divides a lot held in single and separate ownership at the effective date of this Chapter, the use regulations applicable to either district may extend not more than 50 feet beyond the district boundary line.

**§27-305. Interpretation of Boundaries.**

Where physical features exist that are at variance with the official Zoning Map or in other circumstances not covered by §§27-302 or 27-303, the Township Supervisors shall interpret the district boundaries.

**§27-306. Regulations and Restrictions.**

Except as hereinafter provided, no erection, construction, reconstruction, alteration or use of buildings, structures or land shall be permitted within the district in which such buildings, structures or land are located:

- A. For any purpose other than is permitted in the district.
- B. To exceed the height or building coverage herein established for the district.
- C. To reduce yards or other open spaces in any manner except in conformity with the area regulations established.
- D. To be located on a lot in any manner except as herein defined.
- E. Without obtaining a zoning permit to be issued by the Zoning Officer only in accordance with the provisions of this Chapter.

*(Ord. 2013-362, 10/14/2013, §3)*

**PART 4****AP – AGRICULTURAL PRESERVATION DISTRICT****§27-401. AP -Agricultural Preservation District.**

- A. The AP-Agricultural Preservation District is designed to protect and promote agriculture as a major component of the economy of the Township and of Berks County. The district is designed to achieve compliance with §604(3) of the Municipalities Planning Code which directs that zoning ordinances contain provisions designed to “preserve prime agriculture and farmland considering topography, soil type and classification and present use”. The zoning district is intended to preserve for agricultural use the best farmlands of the township as well as existing associated buildings, structures, etc.
- B. The Comprehensive Plan recognizes the unique quality of the farmland of Oley Township and establishes the preservation of that high quality farmland as a major goal of the plan.
- C. In planning for agricultural land, it is the Township’s policy not to consider agricultural land as “undeveloped farmland awaiting another use”. Farmland must be considered as “developed land”. It is being used to produce a product. Farming is a land intensive manufacturing process which converts raw materials into a product, comparable to other industrial operations, with occasional accompanying nuisances of noise odor and dust. The agricultural zone should not be considered as a holding zone but as a zone having a positive purpose of utilizing the Township’s natural resources for the benefit of the entire community and the Township should protect the agricultural zone from interference by incompatible uses which break down the integrity of the zone and also interfere with normal and customary operations within the zone.

**§27-402. Use Regulations.****A. Uses Permitted By Right.**

A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Agricultural and horticultural uses including, but not limited to, crop production, dairy, beef, swine, poultry, orchards, sod production, similar character uses, horses and mushroom culture.
- (2) Nonresidential structures customarily accessory to uses on the property which are permitted in (A) above subject to the requirements of §27-1606 of this Chapter.



- (3) Roadside stands, pursuant to §27-1617.
- (4) Processing of farm products, where such use is designed to be accessory to the raising or growing of such products and is located on the same property on which the products are raised or grown. So long as the basic purpose and design of such use is intended for the processing of products raised or grown on the premises, however, the processing of such products from other local area farms shall also be permitted.
- (5) New single-family dwellings including those to be located on a farm and conversion of pre-existing single-family dwellings to two-family dwellings subject to the regulations set forth in §27-403 of this Chapter.
- (6) Woodland or game preserve, wildlife sanctuary or other conservation purpose.
- (7) Forestry, where conducted in compliance with the provisions of §§27-1701.H, and 27-1631 of this Chapter.
- (8) No-impact home-based business.
- (9) Small business services and craft industries including, but not limited to welding shop, butcher shop, woodworking, furniture restoration and saddle harness sale and repair. Uses permitted under this paragraph must be uses which do not tend to create dust or odors outside the building in which the use is being conducted or noise audible outside the building in which the use is being conducted. The operation and leasing of self-service storage facilities or garages shall not be permitted. These uses shall be subject to the following conditions:
  - (a) There shall be a maximum of three employees in addition to the proprietor.
  - (b) The use or activity must be conducted in a building existing on January 1, 1992.
  - (c) The owner must protect adjacent properties from noise, dust or other potentially detrimental effects of the commercial activity or use.
- (10) Renewable energy systems. The following uses are allowed by right, subject to the provisions of Section 27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear

yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.

- (c) Outdoor Wood-fired Boiler.
- (d) Closed-loop Geothermal Energy System.
- (e) Manure Digester when located on and supplied entirely by feed-stock from a single farm or farms owned by a single party.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.

- (1) Small business services and craft industries including, but not limited to, motor vehicle repair facility and machinery repair facility, provided that in addition to the applicable requirements listed in Section 27-402.B above, the applicant establishes that:
  - (a) That the premises will be kept neat and orderly and there will be no outdoor storage of the following:
    - i. Automobiles, buses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code but not so registered, or parts thereof.
    - ii. Automobiles, buses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code and so registered but not displaying a currently valid certificate of inspection and approval issued pursuant to Chapter 47 of the Pennsylvania Motor Vehicle Code, or parts thereof.
    - iii. Motor vehicle parts or accessories.
    - iv. Junk as defined in this Chapter.
  - (b) That the use will not involve noise audible to neighboring residents between 6 p.m. and 7 a.m. The Zoning Hearing Board may require as a condition to any special exception that the applicant put in noise insulation and take other action so as to minimize audible noise during the period of 7 a.m. to 6 p.m. If the Zoning Hearing Board determines that the use will involve unreasonable noise which cannot be satisfactorily reduced by insulation and other action by the

applicant, the application shall not be approved.

- (2) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of Section 27-1630:
- (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than eight hundred (800) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
    - (i) Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - (ii) Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (d) Open-loop Geothermal Energy Systems.

C. Uses Permitted as Conditional Use.

The following uses may be permitted when approved as a conditional use by the Board of Supervisors:

- (1) Manure digesters with feedstock procured from farms owned by separate parties, or when owned and operated by an Agricultural Cooperative, subject to the provisions of Section 27-1630.

D. Accessory Uses.

Any accessory use customarily carried on in conjunction with farming and rural life, or incidental to any dwelling or other main use permitted above, such as:

- (1) Home occupations pursuant to Section 27-1614 of this Chapter.
- (2) Erection or alteration of the usual farm buildings.

- (3) Rooms, not more than three in number, for roomers or tourists.
- (4) Bed and breakfast inn pursuant to Section 27-1615 of this Chapter.
- (5) Signs pursuant to Part 19 of this Chapter.
- (6) Agritainment.
- (7) Agritourism.

**§27-403. Density, Area and Bulk Regulations.**

A. Minimum lot area, width, yard and height regulations as follows shall apply:

(1) **Minimum Lot Area.**

- (a) Farm - seventy-five (75) acres.
- (b) Single-family dwelling or two-family dwelling (pre-existing or conversion from a pre-existing single family dwelling) - 40,000 square feet.
- (c) Other uses - 40,000 square feet.

(2) **Minimum Lot Width.**

- (a) Single-family dwelling - one hundred fifty (150) feet.
- (b) Two-family dwelling (pre-existing or conversion from a pre-existing single family dwelling) - one hundred seventy (170) feet.
- (c) Other uses - one hundred fifty (150) feet.

(3) **Front Yard.**

A minimum of fifty (50) feet from street right-of-way line.

(4) **Side and Rear Yards.**

A minimum of twenty five (25) feet.

(5) **Height.**

- (a) No limitation for agricultural buildings or structures;
- (b) Maximum of thirty-five (35) feet for nonagricultural buildings or

structures.

B. **Parking Area Setbacks.** Parking areas shall be set back from property lines according to the following:

- (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
- (2) **Side.** Twenty-five (25) feet.
- (3) **Rear.** Fifty (50) feet.

**§27-404. Requirements For Subdivision of a Tract.**

A. Subdivision of land shall be permitted only:

- (1) When necessary to permit the location of a lot for a dwelling unit pursuant to §27-405 of this Chapter.
- (2) To permit a tract to be divided into or among two or more “farms” which will, after transfer, each contain at least seventy-five (75) gross acres.
- (3) To permit a tract of land leased as of January 1, 1992 to be subdivided from the remaining tract not leased as of that date and conveyed to the lessee.
- (4) To annex a parcel of land from one adjacent tract to another; provided, that the combined lot following annexation does not exceed 66,000 square feet or that the combined lot following annexation is larger than the transfer or tract prior to the transfer. The provisions of this Section shall not apply to the land being annexed to a lot used by an existing church, so long as the parcel being annexed does not exceed 2 acres.

B. Any new division line being created between two “farms” or “tracts” shall be agriculturally reasonable and will not be so as to render the agricultural use of the tracts less efficient, i.e., under normal circumstances fields and contour strips will not be split.

C. The land transferred to a farm or tract pursuant to this Section shall not subsequently be separated from such farm or tract.

D. A property owner submitting a subdivision plan will be required to specify on his plan which lot or lots shall carry with them the right to erect or place any unused quota of dwelling rights his tract may have.

E. All plans submitted to subdivide land in the Agricultural Preservation District shall contain the following language in conspicuous form.

**Agricultural Nuisance Disclaimer** - All lands within the Agricultural Preservation District are located within an area where land is used for commercial agricultural production. Owners, residents and other uses of this property may be subjected to inconvenience, discomfort and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations including but not limited to noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants and users of this property should be prepared to accept these conditions (such inconveniences, discomfort and possibility of injury from normal agricultural operations), and are hereby put on official notice that §4 of the Pennsylvania Act 133 of 1982 “The Right to Farm Law” may bar them from obtaining a legal judgment against such normal agricultural operations.

**§27-405. Requirements Regarding Residential Uses.**

A. The maximum number of dwelling units permitted on any tract shall be based upon the size of such tract. On each such tract, there shall be permitted the following number of dwelling units including those to be placed on a farm in addition to those dwelling units located on the tract or parcel on the date of the enactment of this Chapter amendment:

<b>Gross Area of Tract of Land in Single and Separate Ownership as of January 1, 1992</b>	<b>Number of Additional Dwelling Units Permitted</b>
Less than 7 acres	1
From 7 acres up to but not including 30 acres	2
From 30 acres up to but not including 80 acres	3
From 80 acres up to but not including 130 acres	4
From 130 acres up to but not including 180 acres	5
From 180 acres up to but not including 230 acres	6
From 230 acres up to but not including 280 acres	7

Any larger tract shall be governed by the same progression of one lot for each additional fifty (50) acres.

The above allotment does not change with land ownership and all subsequent owners of a tract are bound by the acts of previous owners.

B. New single-family dwelling units shall be located on lots in land capability classification units 3e through 7s, as specified by the Soil Survey of Berks County, Pennsylvania of July, 2008, or on lots on lands which cannot feasibly be farmed:

- (1) Due to existing features of the site such as rock outcroppings, swamp, the fact that the area is heavily wooded or the fact that the slope of the area exceeds fifteen (15) percent.
- (2) Due to the fact that the size of shape of the area suitable for farming is insufficient to permit efficient use of farm machinery.

(For purposes of the application of this Section, the land to be considered as part of the original tract.) Where such location is not feasible, permits shall be issued to enable dwelling units to be located on lots containing higher quality soils. In all cases, lots shall be permitted to front on an existing public road if desired by the property owner and shall be so as to permit the location of dwelling under DEP regulations. However, in all cases, such residential lot shall be located on the least agriculturally productive land feasible, and so as to minimize interference with agricultural production.

C. A lot on which a new dwelling is to be located shall not contain more than 66,000 square feet, unless it is determined from the subdivision plan submitted by the property owner that:

- (1) The property owner has sufficient land unsuitable for agricultural use to justify using more than 66,000 square feet for the location of the proposed dwelling unit; (the effect of the larger lot size will not be such as to preclude the owner from locating all of the dwellings permitted on his tract by subsection (1) of this Section on land unsuitable for agricultural use).
- (2) The physical characteristics of the land require using more than 66,000 square feet in order to locate the proposed dwelling unit, the sewage disposal system, the well and the driveway.
- (3) The requirements of the Pennsylvania Department of Environmental Protection require a lot of size in excess of 66,000 square feet.

D. Existing buildings may be separated from the original parcel only after it is determined that such buildings have no functional utility in connection with the agricultural use of the original tract, i.e., farm has been purchased by neighboring farmer who has a full set of buildings and has no need for these or for the house if it only is proposed to be sold. If an existing farmhouse of the entire set of farm buildings is being separated from the original tract, the lot size shall be sufficient to include all of the buildings being sold and may include adjacent land unsuitable for agricultural use as defined in subsection E. of this Section provided the inclusion of such additional land of low quality for agricultural use does not impair the owner of the property from locating all of his quota of dwelling lots as permitted by subsection A of this Section on land unsuitable for agricultural use.

E. Lots shall be considered unsuitable for agricultural use if:

- (1) All of the land in the lots in land capability classification units 4e through 4s,

as specified by the Soil Survey Geographic (SSURGA) database for Berks County, Pennsylvania (July, 2008); and

- (2) The land cannot feasibly be farmed:
  - (a) Due to existing features of the site such as rock outcroppings, swamps, the fact that the area is heavily wooded or the fact that the slope of the area exceeds fifteen (15) percent.
  - (b) Due to the fact that the size or shape of the areas suitable for farming is insufficient to permit efficient use of farm machinery. (For purposes of the application of this Section, the land to be contained in the lot shall be considered as part of the original tract.)
- (3) The applicant shall have the burden of proving that the land he seeks to subdivide meets the criteria set forth in this Section.
- (4) Lots for the location of single-family dwelling units in addition to those authorized by subsection A. may be permitted provided that all the dwelling units permitted by subsection A. and constructed after January 15, 1992, and all the additional new dwelling units are located on land unsuitable for agricultural use within the meaning of subparagraph E. of this Section. The number of dwelling lots permitted by this Section shall not be such as to permit there to be on any tract of land more than twice the number of dwelling units permitted on that tract by subsection A. of this Section.
- (5) Any landowner who disagrees with the classification of his farm or any part of it by the Soil Survey Geographic (SSURGA) database for Berks County, Pennsylvania (July, 2008), may submit an engineering analysis of the soils on the portion of the farm which he seeks to have reclassified; and if the Board of Supervisors finds his study correct, it shall act in accordance with the results of such study.
- (6) Dwelling units located on a tract on the date of the enactment of this Chapter amendment shall be those units occupied as dwelling units on that date and those units which were occupied as dwelling units within the one (1) year immediately preceding the enactment of this Chapter amendment. The division of a dwelling unit into two (2) dwelling units shall be considered the addition of a dwelling unit.

**§27-406. Requirements Respective to Nonagricultural Uses Other Than Residential Uses.**

- A. No tract may be subdivided to create a separate lot for such use.
- B. Such uses must be located on the lowest quality agricultural feasible soil so as to minimize the loss of farmland and so as to minimize interference with agricultural



production.

- C. Prior to issuing a permit to allow such use, the Zoning Officer must certify that the requirements of subsection (2) hereof have been complied with.

*(Ord. 2013-362, 10/14/2013, §4)*

**§27-407. Additional Regulations For Agritainment and Agritourism.**

**A. Agritainment.**

- (1) **Use.** The use(s) shall, individually and in the aggregate, be purely accessory and incidental to an Agriculture use, and shall not become the primary use of the parcel(s).
- (2) **Prior Use.** An operator of an Agriculture use that has engaged in Agritainment activities upon properties which can be identified as existing prior to the date of enactment of the Ordinance may continue to engage in those Agritainment activities upon those properties subject to the restrictions and requirements set forth herein. This provision specifically precludes properties or parcels that may be owned by an operator but upon which Agritainment is not currently conducted.
- (3) **Site Plan.** A site plan shall be submitted to the Zoning Officer that identifies the location of Agritainment activities, farm buildings, dwellings, existing and proposed driveways, access drives, parking areas and vehicle turnaround areas shall be provided.
- (4) **Authorized Operator.** The Agritainment use(s) shall be operated by the owner of the property or a member of his/her immediate family (spouse, sibling, child, grandchild, parent, grandparent), or by an operator of the Agriculture use, or by an occupant of the Agriculture use upon which it is located.
- (5) **Sanitization.** If and when farm animals are used for any Agritainment activity, such animals shall be in good health, well nourished, fully vaccinated, and otherwise compliant with the mandates and/or recommendations of the Pennsylvania Department of Agriculture. Further, if any such animals are permitted to come in contact with any member of the general public, the operator shall provide readily accessible and functioning hand-washing or sanitizing stations compliant with the recommendations of the Centers for Disease Control and Prevention (CDC).
- (6) **Setbacks.**
  - (a) Agritainment activities occurring within a crop area that provides a natural buffer, such as a corn maze, orchard trees or grape vines, shall

be located not less than twenty-five (25) feet from any residential property line. This requirement shall be increased to a distance of three hundred (300) feet for any “haunted” activities or those that involve man-made or special effects creating noise, light or smoke.

- (b) Agritainment activities that occur in buildings shall be set back in accordance with applicable setbacks for accessory use buildings in the District.
- (7) **No Subdivision.** No portion of the site containing Agritainment activities shall be subdivided from the parent tract.
- (8) **Soil Identification.** Prime Agricultural Soils shall be identified by the Applicant. No areas of prime agricultural soil shall be occupied by an activity in a way that renders the land incapable of being converted to agriculture use, nor otherwise diminishes the productive capacity of such agricultural soils.
- (9) **Hours.** Agritainment activities shall not begin before 8:00 a.m. and shall terminate no later than 10:00 p.m.
- (10) **Minimum Parcel Size.** Agritainment shall be conducted on agricultural operations having at least ten (10) acres.
- (11) **Lighting.** Pole-mounted lights shall not exceed twenty-five (25) feet in height, and shall be shielded and directed towards the interior of the site.
- (12) **Exterior Storage.** All exterior storage of items related to the Agritainment use that are located within one hundred (100) feet of the lot line of a residential use shall be screened in accordance with Section 27-1633.
- (13) **Conversions.** All structures constructed for the Agritainment use shall be of the nature that they can reasonably be converted to accommodate a permitted agriculture use, or shall be removed upon the close of the activity.
- (14) **Temporary Structures.** Any structures that are temporary in nature and are used in conjunction with the Agritainment activities shall be removed not later than twenty-eight (28) days after the last scheduled date of the activity or event. As an alternative to removal of said structures, said structures may be relocated to a designated and screened storage area on another portion of the parcel. This provision shall not apply to utilities and fences.
- (15) **Inspections.** The Applicant shall demonstrate that structures to be occupied by the public shall not pose any danger to life or safety due to fire, collapse, panic or similar danger. Life and Safety Inspections of grounds and structures are required annually.

- (16) **Parking.** In addition to all off-street parking spaces required in connection with the primary Agriculture uses, the property shall provide at least one (1) off-street parking space for every two (2) persons anticipated to be present in connection with Agritainment uses at that time in a calendar year when the number of such persons is greatest.
- (17) **Entrance Paving.** The Township may require a paved apron or a gravel scraping area at any or all entrances/exits to prevent tracking of mud or debris onto any public roadway, and shall so require a paved apron or a gravel scraping area whenever the Agritainment uses attract more than three hundred (300) vehicles per day on three (3) or more occasions during a calendar year.
- (18) **Collection of Admission or Parking Fees.** Any booth or other structure used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle back-ups on adjoining roads during peak arrival periods. Any other collection of fees (e.g., roaming parking lot attendants) shall be accomplished in a manner to prevent vehicle back-ups on adjoining roads.
- (19) **Retail Sales.** The total area allocated to retail sales or the sale of goods and merchandise such as souvenirs, gifts, trinkets and accessory items shall not exceed four thousand (4,000) square feet of total gross floor area, excluding storage areas and other areas not accessible by the general public. Retail Sales shall not include the direct commercial sale of Agricultural Commodities, as defined and to the extent permitted in and under the Right to Farm Act [Title 3 P.S. § 952 and Title 3 P.S. § 953(b)].
- (20) **Traffic.** The Township may require the Applicant to prepare a plan for controlling traffic and circulation on the site at the expense of the Applicant. The Township may also require the Applicant to provide qualified traffic-control personnel at the expense of the Applicant.
- (21) **Control of Litter.** The Township may require the Applicant to prepare a plan for the removal of litter (on-site and off-site).
- (22) **Contingency Plan.** The owner or operator of an Agritainment use shall maintain a current emergency contingency plan and provide the plan to the Township.
- (23) **Liability Insurance.** The owner or operator of an Agritainment use shall maintain general commercial liability insurance of at least \$500,000.00 per incident and \$2 million aggregate coverage. Such insurance coverage may be on an annual or an event basis. Owner shall provide proof of such insurance to the Township on an annual or event basis as the case may be.
- (24) **Restroom Facilities.** The owner or operator of an Agritainment use shall provide adequate restroom facilities for all attendees at all times.

- (25) **Agricultural Conservation Easements.** The operation of an Agritainment use pursuant to this Section does not supersede any restrictions, limitations, or obligations of an owner or operator pursuant to any agricultural conservation easement that may apply to the parcel or parcels where the Agritainment use is occurring.

**B. Agritourism.**

- (1) **Use.** The use(s) shall, individually and in the aggregate, be purely accessory and incidental to an Agriculture use, and shall not become the primary use of the parcel(s).
- (2) **Prior Use.** An operator of an Agriculture use that has engaged in Agritourism activities upon properties which can be identified as existing prior to the date of enactment of this Ordinance may continue to engage in those Agritourism activities subject to the restrictions and requirements set forth herein.
- (3) **Site Plan.** A site plan shall be submitted to the Zoning Officer that identifies the location of Agritourism activities, farm buildings, dwellings, existing and proposed driveways, access drives, parking areas and vehicle turnaround areas shall be provided.
- (4) **Authorized Operator.** The Agritourism use(s) shall be operated by the owner of the property or a member of his/her immediate family (spouse, sibling, child, grandchild, parent, grandparent), or by an operator of the Agriculture use, or by an occupant of the Agriculture use upon which it is located.
- (5) **Sanitization.** If and when farm animals are used for any Agritourism activity, such animals shall be in good health, well nourished, fully vaccinated, and otherwise compliant with the mandates and/or recommendations of the Pennsylvania Department of Agriculture. Further, if any such animals are permitted to come in contact with any member of the general public, the operator shall provide readily accessible and functioning hand-washing or sanitizing stations compliant with the recommendations of the Centers for Disease Control and Prevention (CDC).
- (6) **Setbacks.**
- (a) Agritourism activities that involve patrons harvesting fruits, vegetables or other crops in their natural state are not required to be set back from property lines.
- (b) Agritourism activities occurring within a crop area that provides a natural buffer, such as a corn field, orchard trees or grape vines, shall

be located not less than twenty-five (25) feet from any residential property line.

- (c) Agritourism activities that occur in buildings shall be set back in accordance with applicable setbacks for accessory use buildings in the District.
- (7) **No Subdivision.** No portion of the site containing Agritourism shall be subdivided from the parent tract.
- (8) **Soil Identification.** Prime Agricultural Soils shall be identified by the Applicant. No areas of prime agricultural soil shall be occupied by an activity in a way that renders the land incapable of being converted to Agriculture use, nor otherwise diminishes the productive capacity of such agricultural soils.
- (9) **Hours.** With the exception of direct commercial sales of agricultural commodities as defined in the Right to Farm Act [Title 3 P.S. § 953(b)], Agritourism activities shall not begin before 8:00 a.m. and shall terminate no later than 10:00 p.m.
- (10) **Minimum Parcel Size.** Agritourism shall be conducted on agricultural operations having at least ten (10) acres.
- (11) **Lighting.** Pole-mounted lights shall not exceed twenty-five (25) feet in height, and shall be shielded and directed towards the interior of the site.
- (12) **Exterior Storage.** All exterior storage of items related to the Agritourism use that are located within one hundred (100) feet of the lot line of a residential use shall be screened in accordance with Section 27-1633.
- (13) **Conversions.** All structures constructed for the Agritourism use shall be of the nature that they can reasonably be converted to accommodate a permitted agriculture use, or shall be removed upon the close of the activity.
- (14) **Temporary Structures.** Any structures that are temporary in nature and are used in conjunction with the Agritourism activities shall be removed not later than twenty-eight (28) days after the last scheduled date of the activity or event. As an alternative to removal of said structures, said structures may be relocated to a designated and screened storage area on another portion of the parcel. This provision shall not apply to utilities and fences.
- (15) **Inspections.** The operator shall demonstrate that structures to be occupied by the public shall not pose any danger to life or safety due to fire, collapse, panic or similar danger. Life and Safety Inspections of grounds and structures are required annually.

- (16) **Parking.** In addition to all off-street parking spaces required in connection with the primary Agriculture uses, the property shall provide at least one (1) off-street parking space for every two (2) persons anticipated to be present in connection with Agritourism uses at that time in a calendar year when the number of such persons is greatest.
- (17) **Entrance Paving.** The Township may require a paved apron or a gravel scraping area at any or all entrances/exits to prevent tracking of mud or debris onto any public roadway, and shall so require a paved apron or a gravel scraping area whenever the Agritourism uses attract more than three hundred (300) vehicles per day on three (3) or more occasions during a calendar year.
- (18) **Collection of Admission or Parking Fees.** Any booth or other structure used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle back-ups on adjoining roads during peak arrival periods. Any other collection of fees (e.g., roaming parking lot attendants) shall be accomplished in a manner to prevent vehicle back-ups on adjoining roads.
- (19) **Retail Sales.** The total area allocated to retail sales or the sale of goods and merchandise such as souvenirs, gifts, trinkets and accessory items shall not exceed four thousand (4,000) square feet of total gross floor area, excluding storage areas and other areas not accessible by the general public. Retail Sales shall not include the direct commercial sale of Agricultural Commodities, as defined and to the extent permitted in and under the Right to Farm Act [Title 3 P.S. § 952 and Title 3 P.S. § 953(b)].
- (20) **Traffic.** The Township may require the Applicant to prepare a plan for controlling traffic and circulation on the site at the expense of the Applicant. The Township may also require that Applicant provide qualified traffic-control personnel at the expense of the Applicant.
- (21) **Control of Litter.** The Township may require the Applicant to prepare a plan for the removal of litter (on-site and off-site).
- (22) **Contingency Plan.** The owner or operator of an Agritourism use shall maintain a current emergency contingency plan and provide the plan to the Township.
- (23) **Liability Insurance.** The owner or operator of an Agritourism use shall maintain general commercial liability insurance of at least \$500,000.00 per incident and \$2 million aggregate coverage. Such insurance coverage may be on an annual or an event basis. Owner shall provide proof of such insurance to the Township on an annual or event basis as the case may be.
- (24) **Restroom Facilities.** The owner or operator of an Agritourism use shall provide adequate restroom facilities for all attendees at all times.

- (25) **Agricultural Conservation Easements.** The operation of an Agritourism use pursuant to this Section does not supersede any restrictions, limitations, or obligations of an owner or operator pursuant to any agricultural conservation easement that may apply to the parcel or parcels where the Agritourism use is occurring.

*(Ord. 387, 12/12/2022, §§2 and 4)*

**PART 5****RU - RURAL DISTRICT****§27-501. RU- Rural District.**

- A. The RU– Rural District is designed primarily to encourage the preservation of large, rural areas of the Township for continued agricultural, forest, recreational, conservation and other open space purposes, while, at the same time, providing for such residential use as is compatible with the basic rural character of the district.
- B. In the RU District, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-502. Use Regulations.**

- A. Uses Permitted By Right. A principal building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:
  - (1) Single-family detached dwelling.
  - (2) Single-family semi-detached dwelling.
  - (3) Two-family detached dwelling.
  - (4) Agricultural use, including for residential purposes not more than two single-family detached dwellings, or one two-family detached dwelling and one single-family detached dwelling or one single-family semi-detached dwelling and one single-family detached dwelling. Any farm building used for the keeping or raising of livestock or poultry or for mushroom culture shall be located not less than fifty (50) feet from any street or other property line.
  - (5) Woodland or game preserve, wildlife sanctuary, other conservation purpose.
  - (6) Township use.
  - (7) Park, playground or similar noncommercial recreational area owned and operated by a public or private nonprofit agency.
  - (8) Public utility, but not to include an office or place of business, or storage of materials, or trucking or repair facilities or the housing of repair crews.
  - (9) Kennels pursuant to §27-1616 of this Chapter.
  - (10) Small business services and craft industries including, but not limited to welding shop, butcher shop, woodworking, furniture restoration and saddle



harness sale and repair. Uses permitted under this paragraph must be uses which do not tend to create dust or odors outside the building in which the use is being conducted or noise audible outside the building in which the use is being conducted. The operation and leasing of self-service storage facilities or garages shall not be permitted. These uses shall be subject to the following conditions:

- (a) There shall be a maximum of three employees in addition to the proprietor.
  - (b) The use or activity must be conducted in a building existing on January 1, 1992, or in a newly constructed building approved by special exception provided that the proposed use in a newly constructed building is primarily for agricultural support.
  - (c) The owner must protect adjacent properties from noise, dust or other potentially detrimental effects of the commercial activity or use.
- (11) Forestry, where conducted in compliance with the provisions of §27-1701.H., and §27-1631 of this Chapter.
  - (12) No-impact home-based business.
  - (13) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
    - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
    - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
    - (c) Outdoor Wood-fired Boiler.
    - (d) Closed-loop Geothermal Energy System.
- B. Uses Permitted By Special Exception. Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:
- (1) Nursery school, elementary school, middle school, junior high school or high school.
  - (2) Church or other place of worship, Sunday School, parish house.

- (3) Outdoor recreational use customarily located in rural areas, other than a use permitted elsewhere in this Section above including, but not restricted to, a picnic grove, park, swimming area, golf course, hunting club, tennis court, riding academy or similar use, provided that:
  - (a) The lot on which any such use is conducted shall be not more than 5 acres in size.
  - (b) The use and its design shall be compatible with the natural character of the area.
  - (c) Any building or structure associated with the use shall be clearly incidental to the permitted outdoor use. The restriction in subsection (a) above will not apply for golf courses or hunting clubs.
- (4) Cemetery or mausoleum.
- (5) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than eight hundred (800) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when such System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (d) Open-loop Geothermal Energy Systems.
- (6) Commercial Solar Energy System, pursuant to Section 27-1630.A.(7).

C. Accessory Uses. The following accessory uses shall be permitted.

- (1) Any accessory use customarily carried on in conjunction with farming and rural life, or incidental to any dwelling or other main use permitted above, such as:
  - (a) Home occupation pursuant to §27-1614 of this Chapter.
  - (b) Quarters for hired help.
  - (c) Roadside stand for the sale of farm products pursuant to §27-1617 of this Chapter.
  - (d) Marketing or processing of farm products and erection or alteration of the usual farm buildings where such use is incidental to agriculture or animal husbandry.
  - (e) Bed and breakfast pursuant to §27-1615 of this Part.
  - (f) Incidental use in conjunction with any outdoor recreational use permitted in §27-402B.3. above, such as charging of admissions or sale of refreshments, provided that the commercial aspect of any such use shall be located or screened so that it will not be visible from the public street or an adjoining property.
  - (g) Signs when erected and maintained in accordance with the provisions of Part 19 of this Chapter.
  - (h) Residential accessory buildings and structures.
- (2) Agritainment.
- (3) Agritourism.

*(Ord. 376, 10/28/2017, §5, as amended by Ord. 387, 12/12/2022, §3)*

**§27-503. Area and Height Regulations.**

For every principal building, the following regulations shall apply:

A. **Lot Area and Size.**

- (1) Minimum Lot Area.
  - Single-Family Detached Dwelling - 66,000 sq. ft.
  - Single-Family Semidetached Dwelling - 40,000 sq. ft. per dwelling unit

Two-family Detached Dwelling - 40,000 sq. ft. per dwelling unit

Nonresidential - 66,000 sq. ft. per principal use

(2) Minimum Lot Width.

Single-family Detached Dwelling - one hundred fifty (150) feet

Single-family Semi-Detached Dwelling - eighty-five (85) feet per dwelling unit

Two-family Detached - one hundred seventy (170) feet

Nonresidential - one hundred fifty (150) feet

**B. Lot Coverage.**

(1) Maximum area of a lot which may be occupied by buildings and structures - fifteen (15) percent.

(2) Maximum area of a lot which may be paved – five (5) percent.

**C. Front Yard** - Minimum of fifty (50) feet, subject to the provisions of §27-1613.

**D. Side Yards** - Minimum of twenty-five (25) feet each.

**E. Rear Yard** - Minimum of fifty (50) feet.

**F. Height.**

(1) Agriculture buildings and agriculture structures - No maximum.

(2) All other buildings and structures - Maximum of thirty-five (35) feet.

**G. Parking Area Setbacks.** Parking areas shall be set back from property lines according to the following:

(1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].

(2) **Side and Rear.** Twenty-five (25) feet.

*(Ord. 2013-362, 10/14/2013, §5; and Ord. 374, 10/09/2017, §4)*

**§27-504. Additional Regulations For Agritainment and Agritourism.**

**A. Agritainment.**

- (1) **Use.** The use(s) shall, individually and in the aggregate, be purely accessory and incidental to an Agriculture use, and shall not become the primary use of the parcel(s).
- (2) **Prior Use.** An operator of an Agriculture use that has engaged in Agritainment activities upon properties which can be identified as existing prior to the date of enactment of the Ordinance may continue to engage in those Agritainment activities upon those properties subject to the restrictions and requirements set forth herein. This provision specifically precludes properties or parcels that may be owned by an operator but upon which Agritainment is not currently conducted.
- (3) **Site Plan.** A site plan shall be submitted to the Zoning Officer that identifies the location of Agritainment activities, farm buildings, dwellings, existing and proposed driveways, access drives, parking areas and vehicle turnaround areas shall be provided.
- (4) **Authorized Operator.** The Agritainment use(s) shall be operated by the owner of the property or a member of his/her immediate family (spouse, sibling, child, grandchild, parent, grandparent), or by an operator of the Agriculture use, or by an occupant of the Agriculture use upon which it is located.
- (5) **Sanitization.** If and when farm animals are used for any Agritainment activity, such animals shall be in good health, well nourished, fully vaccinated, and otherwise compliant with the mandates and/or recommendations of the Pennsylvania Department of Agriculture. Further, if any such animals are permitted to come in contact with any member of the general public, the operator shall provide readily accessible and functioning hand-washing or sanitizing stations compliant with the recommendations of the Centers for Disease Control and Prevention (CDC).
- (6) **Setbacks.**
  - (a) Agritainment activities occurring within a crop area that provides a natural buffer, such as a corn maze, orchard trees or grape vines, shall be located not less than twenty-five (25) feet from any residential property line. This requirement shall be increased to a distance of three hundred (300) feet for any “haunted” activities or those that involve man-made or special effects creating noise, light or smoke.
  - (b) Agritainment activities that occur in buildings shall be set back in accordance with applicable setbacks for accessory use buildings in the District.
- (7) **No Subdivision.** No portion of the site containing Agritainment activities

shall be subdivided from the parent tract.

- (8) **Soil Identification.** Prime Agricultural Soils shall be identified by the Applicant. No areas of Prime Agricultural Soil shall be occupied by an activity in a way that renders the land incapable of being converted to Agriculture use, nor otherwise diminishes the productive capacity of such agricultural soils.
- (9) **Hours.** Agritainment activities shall not begin before 8:00 a.m. and shall terminate no later than 10:00 p.m.
- (10) **Minimum Parcel Size.** Agritainment shall be conducted on agricultural operations having at least ten (10) acres.
- (11) **Lighting.** Pole-mounted lights shall not exceed twenty-five (25) feet in height, and shall be shielded and directed towards the interior of the site.
- (12) **Exterior Storage.** All exterior storage of items related to the Agritainment use that are located within one hundred (100) feet of the lot line of a residential use shall be screened in accordance with Section 27-1633.
- (13) **Conversions.** All structures constructed for the Agritainment use shall be of the nature that they can reasonably be converted to accommodate a permitted Agriculture use, or shall be removed upon the close of the activity.
- (14) **Temporary Structures.** Any structures that are temporary in nature and are used in conjunction with the Agritainment activities shall be removed not later than twenty-eight (28) days after the last scheduled date of the activity or event. As an alternative to removal of said structures, said structures may be relocated to a designated and screened storage area on another portion of the parcel. This provision shall not apply to utilities and fences.
- (15) **Inspections.** The Applicant shall demonstrate that structures to be occupied by the public shall not pose any danger to life or safety due to fire, collapse, panic or similar danger. Life and Safety Inspections of grounds and structures are required annually.
- (16) **Parking.** In addition to all off-street parking spaces required in connection with the primary Agriculture uses, the property shall provide at least one (1) off-street parking space for every two (2) persons anticipated to be present in connection with Agritainment uses at that time in a calendar year when the number of such persons is greatest.
- (17) **Entrance Paving.** The Township may require a paved apron or a gravel scraping area at any or all entrances/exits to prevent tracking of mud or debris onto any public roadway, and shall so require a paved apron or a gravel scraping area whenever the Agritainment uses attract more than three hundred (300) vehicles per day on three (3) or more occasions during a

calendar year.

- (18) **Collection of Admission or Parking Fees.** Any booth or other structure used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle back-ups on adjoining roads during peak arrival periods. Any other collection of fees (e.g., roaming parking lot attendants) shall be accomplished in a manner to prevent vehicle back-ups on adjoining roads.
- (19) **Retail Sales.** The total area allocated to retail sales or the sale of goods and merchandise such as souvenirs, gifts, trinkets and accessory items shall not exceed four thousand (4,000) square feet of total gross floor area, excluding storage areas and other areas not accessible by the general public. Retail Sales shall not include the direct commercial sale of Agricultural Commodities, as defined and to the extent permitted in and under the Right to Farm Act [Title 3 P.S. § 952 and Title 3 P.S. § 953(b)].
- (20) **Traffic.** The Township may require the Applicant to prepare a plan for controlling traffic and circulation on the site at the expense of the Applicant. The Township may also require the Applicant to provide qualified traffic-control personnel at the expense of the Applicant.
- (21) **Control of Litter.** The Township may require the Applicant to prepare a plan for the removal of litter (on-site and off-site).
- (22) **Contingency Plan.** The owner or operator of an Agritainment use shall maintain a current emergency contingency plan and provide the plan to the Township.
- (23) **Liability Insurance.** The owner or operator of an Agritainment use shall maintain general commercial liability insurance of at least \$500,000.00 per incident and \$2 million aggregate coverage. Such insurance coverage may be on an annual or an event basis. Owner shall provide proof of such insurance to the Township on an annual or event basis as the case may be.
- (24) **Restroom Facilities.** The owner or operator of an Agritainment use shall provide adequate restroom facilities for all attendees at all times.
- (25) **Agricultural Conservation Easements.** The operation of an Agritainment use pursuant to this Section does not supersede any restrictions, limitations, or obligations of an owner or operator pursuant to any agricultural conservation easement that may apply to the parcel or parcels where the Agritainment use is occurring.

**B. Agritourism.**

- (1) **Use.** The use(s) shall, individually and in the aggregate, be purely accessory and incidental to an Agriculture use, and shall not become the primary use of

the parcel(s).

- (2) **Prior Use.** An operator of an Agriculture use that has engaged in Agritourism activities upon properties which can be identified as existing prior to the date of enactment of the Ordinance may continue to engage in those Agritourism activities subject to the restrictions and requirements set forth herein.
- (3) **Site Plan.** A site plan shall be submitted to the Zoning Officer that identifies the location of Agritourism activities, farm buildings, dwellings, existing and proposed driveways, access drives, parking areas and vehicle turnaround areas shall be provided.
- (4) **Authorized Operator.** The Agritourism use(s) shall be operated by the owner of the property or a member of his/her immediate family (spouse, sibling, child, grandchild, parent, grandparent), or by an operator of the Agriculture use, or by an occupant of the Agriculture use upon which it is located.
- (5) **Sanitization.** If and when farm animals are used for any Agritourism activity, such animals shall be in good health, well nourished, fully vaccinated, and otherwise compliant with the mandates and/or recommendations of the Pennsylvania Department of Agriculture. Further, if any such animals are permitted to come in contact with any member of the general public, the operator shall provide readily accessible and functioning hand-washing or sanitizing stations compliant with the recommendations of the Centers for Disease Control and Prevention (CDC).
- (6) **Setbacks.**
  - (a) Agritourism activities that involve patrons harvesting fruits, vegetables or other crops in their natural state are not required to be set back from property lines.
  - (b) Agritourism activities occurring within a crop area that provides a natural buffer, such as a corn field, orchard trees or grape vines, shall be located not less than twenty-five (25) feet from any residential property line.
  - (c) Agritourism activities that occur in buildings shall be set back in accordance with applicable setbacks for accessory use buildings in the District.
- (7) **No Subdivision.** No portion of the site containing Agritourism shall be subdivided from the parent tract.
- (8) **Soil Identification.** Prime Agricultural Soils shall be identified by the Applicant. No areas of Prime Agricultural Soil shall be occupied by an



activity in a way that renders the land incapable of being converted to Agriculture use, nor otherwise diminishes the productive capacity of such agricultural soils.

- (9) **Hours.** With the exception of direct commercial sales of agricultural commodities as defined in the Right to Farm Act [Title 3 P.S. § 953(b)], Agritourism activities shall not begin before 8:00 a.m. and shall terminate no later than 10:00 p.m.
- (10) **Minimum Parcel Size.** Agritourism shall be conducted on agricultural operations having at least ten (10) acres.
- (11) **Lighting.** Pole-mounted lights shall not exceed twenty-five (25) feet in height, and shall be shielded and directed towards the interior of the site.
- (12) **Exterior Storage.** All exterior storage of items related to the Agritourism use that are located within one hundred (100) feet of the lot line of a residential use shall be screened in accordance with Section 27-1633.
- (13) **Conversions.** All structures constructed for the Agritourism use shall be of the nature that they can reasonably be converted to accommodate a permitted agriculture use, or shall be removed upon the close of the activity.
- (14) **Temporary Structures.** Any structures that are temporary in nature and are used in conjunction with the Agritourism activities shall be removed not later than twenty-eight (28) days after the last scheduled date of the activity or event. As an alternative to removal of said structures, said structures may be relocated to a designated and screened storage area on another portion of the parcel. This provision shall not apply to utilities and fences.
- (15) **Inspections.** The operator shall demonstrate that structures to be occupied by the public shall not pose any danger to life or safety due to fire, collapse, panic or similar danger. Life and Safety Inspections of grounds and structures are required annually.
- (16) **Parking.** In addition to all off-street parking spaces required in connection with the primary Agriculture uses, the property shall provide at least one (1) off-street parking space for every two (2) persons anticipated to be present in connection with Agritourism uses at that time in a calendar year when the number of such persons is greatest.
- (17) **Entrance Paving.** The Township may require a paved apron or a gravel scraping area at any or all entrances/exits to prevent tracking of mud or debris onto any public roadway, and shall so require a paved apron or a gravel scraping area whenever the Agritourism uses attract more than three hundred (300) vehicles per day on three (3) or more occasions during a calendar year.

- (18) **Collection of Admission or Parking Fees.** Any booth or other structure used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle back-ups on adjoining roads during peak arrival periods. Any other collection of fees (e.g., roaming parking lot attendants) shall be accomplished in a manner to prevent vehicle back-ups on adjoining roads.
- (19) **Retail Sales.** The total area allocated to retail sales or the sale of goods and merchandise such as souvenirs, gifts, trinkets and accessory items shall not exceed four thousand (4,000) square feet of total gross floor area, excluding storage areas and other areas not accessible by the general public. Retail Sales shall not include the direct commercial sale of Agricultural Commodities, as defined and to the extent permitted in and under the Right to Farm Act [Title 3 P.S. § 952 and Title 3 P.S. § 953(b)].
- (20) **Traffic.** The Township may require the Applicant to prepare a plan for controlling traffic and circulation on the site at the expense of the Applicant. The Township may also require that Applicant provide qualified traffic-control personnel at the expense of the Applicant.
- (21) **Control of Litter.** The Township may require the Applicant to prepare a plan for the removal of litter (on-site and off-site).
- (22) **Contingency Plan.** The owner or operator of an Agritourism use shall maintain a current emergency contingency plan and provide the plan to the Township.
- (23) **Liability Insurance.** The owner or operator of an Agritourism use shall maintain general commercial liability insurance of at least \$500,000.00 per incident and \$2 million aggregate coverage. Such insurance coverage may be on an annual or an event basis. Owner shall provide proof of such insurance to the Township on an annual or event basis as the case may be.
- (24) **Restroom Facilities.** The owner or operator of an agritourism use shall provide adequate restroom facilities for all attendees at all times.
- (25) **Agricultural Conservation Easements.** The operation of an Agritourism use pursuant to this Section does not supersede any restrictions, limitations, or obligations of an owner or operator pursuant to any agricultural conservation easement that may apply to the parcel or parcels where the Agritourism use is occurring.

*(Ord. 387, 12/12/2022, §5)*

**PART 6****RA – RESIDENTIAL DISTRICT****§27-601. RA - Residential District.**

- A. The RA – Residential District is designed to provide for new residential development in attractive subdivisions designed to conserve land and respect the natural, historic, and scenic qualities of the parcel and surrounding lands; discourage conventional, sprawling subdivisions that consume land, create artificial views, and require high amounts of impervious surfaces; utilize both public water and public sanitary sewer services; and provide for a variety of dwelling types and related uses (i.e., schools, recreation areas, churches, etc.) contributing to a more viable neighborhood.
- B. In the RA District, the following shall apply, subject also to other applicable requirements of this Chapter.

**§27-602. Use Regulations.****A. Uses Permitted By Right.**

A principal building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Single-family detached dwelling.
- (2) Single-family semidetached dwelling.
- (3) Two-family detached dwelling.
- (4) Agriculture use, including for residential purposes not more than two single-family detached dwellings; or one two-family detached dwelling and one single-family detached dwelling; or one single-family semi-detached dwelling and one single-family detached dwelling. Any farm building used for the keeping or raising of livestock or poultry or for mushroom culture shall be located not less than fifty (50) feet from any street or other property line.
- (5) Residential open space design development on a tract of land at least twenty (20) net acres in size, and when proposed in accordance with Part 18 of this Chapter.
- (6) Conventional lot-by-lot residential subdivision of a tract of land less than twenty (20) net acres in size, subject to the area and height regulations of §27-603.

- (7) Township building or use.
- (8) Telephone central office or any similar use, but not to include an office or place of business, storage of materials, trucking or repair facilities or the housing of repair crews.
- (9) Park, playground or similar noncommercial recreational area owned and operated by a public or private nonprofit agency.
- (10) Forestry, where conducted in compliance with the provisions of §27-1701.H. and §27-1631, of this Chapter.
- (11) No-impact home-based business.
- (12) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Outdoor Wood-Fired Boiler.
  - (d) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:

- (1) Religious, education or philanthropic use not permitted elsewhere in this Section.
- (2) Club or lodge for fraternal or social purposes, provided that the chief activity of such use shall not be one which is customarily carried on as a business, and provided that the buildings and services shall be primarily for the use of members and their guests only.
- (3) Hospital, convalescent home or similar institution.
- (4) Elementary school, middle school, junior high school, high school or church.
- (5) Quarters for hired help.

- (6) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
- (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than eight hundred (800) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (d) Open-loop Geothermal Energy Systems.

C. Uses Permitted as Conditional Use.

The following uses may be permitted when approved as a conditional use by the Board of Supervisors.

- (1) Conventional lot-by-lot residential subdivision of a tract of land not less than twenty (20) net acres in size, subject to the area and height regulations of §27-603.

D. Accessory Uses.

Any accessory use customarily carried on in conjunction with and incidental to any dwelling or other principal use permitted above, such as:

- (1) Residential accessory buildings or structures.
- (2) Roadside stand pursuant to §27-1617 of this Chapter.

- (3) Home occupation pursuant to §27-1614 of this Chapter.
- (4) Bed and breakfast pursuant to §27-1615 of this Chapter.
- (5) Signs pursuant to Part 19 of this Chapter.

**§27-603. Area and Height Regulations.**

For every principal building, the following regulations shall apply except as otherwise provided for in the case of a residential open space design development in §27-602.A.5:

- A. Lot Area and Width. (See Table on Next Page)
- B. Lot Coverage. (See Table on Next Page)

	<b>Both Public Water and Public Sewer</b>		<b>Public Sewer But No Public Water</b>		<b>No Public Sewer With Or Without Public Water</b>	
	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>
Single-family Detached Dwelling	12,000 sq. ft.	100 feet	20,000 sq. ft.	125 feet	40,000 sq. ft.	150 feet
Single-family Semi-detached Dwelling	12,000 sq. ft. per dwelling unit	50 feet per dwelling unit	20,000 sq. ft. per dwelling unit	60 feet per dwelling unit	40,000 sq. ft. per dwelling unit	80 feet
Two-family Detached Dwelling	12,000 sq. ft. per dwelling unit	100 feet	20,000 sq. ft. per dwelling unit	125 feet	40,000 sq. ft. per dwelling unit	160 feet
Nonresidential Use	40,000 sq. ft.	150 feet	40,000 sq. ft.	150 feet	66,000 sq. ft.	150 feet
<b>Maximum Coverages</b>						
Single-family Detached Dwelling or Single-family Dwelling, or Two Family Detached Dwelling	Building Coverage	35%	Building Coverage	25%	Building Coverage	15%
	Lot Coverage	50%	Lot Coverage	35%	Lot Coverage	20%
Nonresidential	Building Coverage	20%	Building Coverage	20%	Building Coverage	15%
	Paving	50%	Lot Coverage	40%	Lot Coverage	30%

- C. **Front Yard.** Minimum of forty (40) feet, subject to the provisions of §27-1613.
- D. **Side Yards.**
- (1) For every permitted use or building other than a dwelling – neither less than thirty (30) feet.
  - (2) For every residential use or dwelling - both side yards shall have a minimum of thirty-five (35) feet aggregate width and neither less than fifteen (15) feet.
- E. **Rear Yard.** Minimum of thirty (30) feet.
- F. **Height.**
- (1) Agriculture buildings and structures - No maximum.
  - (2) All other buildings and structures –thirty-five (35) feet maximum.
- G. **Parking Area Setbacks.** Parking areas shall be setback from property lines according to the following:
- (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance.
  - (2) **Side and Rear.** Minimum thirty (30) feet.
    - (a) Between the front and rear of one building and the end of another building - not less than thirty (30) feet.
    - (b) Between the end of one building and the end of another building - not less than twenty (20) feet.
    - (c) Between any part of any two buildings - except as hereinbefore provided, not less than twenty (20) feet.

*(Ord. 2013-362, 10/14/2013, §6)*



## PART 7

## RMH – RESIDENTIAL-MOBILE HOME DISTRICT

**§27-701. RMH - Residential-Mobile Home District.**

- A. The RMH - Residential-Mobile Home District is designed to provide for mobile home park development in a manner consistent with the residential character of the Township, utilizing public water and sewer and providing a full range of recreational and community services for the residents.
- B. In the RMH District, the following shall apply subject also to all other applicable requirements of this Chapter.

**§27-702. Use Regulations.**A. Uses Permitted By-Right.

A principal building or group of principal buildings maybe erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Agriculture use, including for residential purposes not more than two single-family detached dwellings, or one two-family detached dwelling and one single-family detached dwelling, or one single-family semi-detached dwelling and one single-family detached dwelling. Any farm building used for the keeping or raising of livestock or poultry shall be located not less than 50 feet from any street or other property line.
- (2) Single-family detached dwelling.
- (3) Single-family semidetached dwelling.
- (4) Two-family detached dwelling.
- (5) Mobile home park providing for the use and occupancy of two or more mobile homes.
- (6) Forestry, where conducted in compliance with the provisions of §27-1701.H., and §27-1631, of this Chapter.
- (7) No-impact home-based business.
- (8) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a

building or structure not shown on the Oley Township Historic Resource Inventory.

- (b) Ground-mounted Solar Energy Systems that are a maximum of five hundred (500) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
- (c) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:

- (1) Quarters for hired help.
- (2) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than five hundred (500) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are five hundred (500) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

C. Accessory Uses.

Any accessory use customarily carried on in conjunction with, or incidental to, any dwelling or other principal use permitted above, such as:

- (1) Residential accessory building and structures.
- (2) Home occupation pursuant to §27-1614 of this Chapter.
- (3) Roadside stand pursuant to §27-1617 of this Chapter.
- (4) Bed and breakfast pursuant to §27-1615 of this Chapter.
- (5) Accessory uses for a mobile home park including laundry, recreational facilities and retail sale of food and convenience items for the use of the mobile home park residents only.

**§27-703. Site Requirements.**

- A. No site shall be developed for use as a mobile home park which is not served by public sewer and by public water (or by a sewage plant approved by the Township Board of Supervisors and by the Pennsylvania Department of Environmental Protection).
- B. No site shall be approved for development as a mobile home park which is less than 10 acres in size.

**§27-704. Area, Density, Width, Yard and Height Regulations for Mobile Homes and Accessory Structures Within Mobile Home Parks.**

- A. Minimum Mobile Home Lot Size per Mobile Home.
  - (1) Single width mobile home 4,000 sq. ft.
  - (2) Double width mobile home 8,000 sq. ft.
- B. Maximum Density of Mobile Homes (Dwelling Units) 6 dwelling units per acre
- C. Minimum Mobile Home Lot Width (Measured at the Minimum Building Setback Line) 40 feet
- D. Minimum setback line for mobile homes from property line of mobile home park and street line boundary 50 feet
- E. Front Yard - Minimum (Front streets internal to the mobile home park) 20 feet
- F. Minimum Distance Between Mobile Homes 20 feet

- G. Minimum Distance Between Mobile Homes and Service or Accessory Building or Common Parking Facility 30 feet
- H. Maximum Coverages
  - (1) Building coverage 30%
  - (2) Lot coverage 65%
- I. Parking Area Setbacks. Parking areas shall be set back from property lines according to the following:
  - (1) Front. No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
  - (2) Side. 25 feet
  - (3) Rear. 50 feet

**§27-705. Standards For Mobile Home Parks.**

- A. Not more than two access roads shall be constructed to serve as an entrance and exit to any single street located outside of the site.
- B. One clothes washer and one clothes dryer shall be provided for each five occupied berths in a separate building.
- C. Indoor recreational facilities shall be provided in a community building if more than 30 berths are occupied according to a recreation plan filed with the Planning Commission.
- D. No more than five adjacent mobile home lots shall be located so that they are parallel to each other.
- E. An evergreen planting screen shall be placed along all boundary lines of the mobile home park separating the mobile home park from adjacent properties and/or streets. Screens shall be established in conformance with the Landscaping and Screening requirements of Section 27-1633 of this Chapter.

**§27-706. Nonresidential Use.**

No part of a mobile home park shall be used for nonresidential purposes, except a laundromat and recreation area can be constructed and common open space shall be used for the pleasure and recreation of the park residents. An office for the park management, and a convenience store will also be permitted on the premises.

**§27-707. Administration.**

- A. **License.** It shall be unlawful to operate a mobile home park within the Township unless a license has been issued by the Board of Supervisors following the payment of the license fee as established, and unless a Certificate of Registration has been issued by the Pennsylvania Department of Environmental Protection. Such license and certificate shall be issued annually.
- B. **Transfer of License.** Licenses are not transferable. Notice in writing shall be given to the Board of Supervisors by the owner of a mobile home park within 10 days after a mobile home park has been sold, transferred, given away, leased or the controlling interest otherwise disposed of. A transfer of certificate by the Pennsylvania Department of Environmental Protection shall be required and a new application with the Township shall be made.
- C. **Park Registration List.** The park shall furnish the Township a list of the tenants of the park, any change in tenancy shall be reported within two (2) weeks. The Board of Supervisors shall have the power to inspect the park register containing a record of all residents of the mobile home park at any reasonable time.
- D. **Fees.** All applications to the Township for a mobile home park shall be accompanied by the payment of a fee which shall be in an amount as established by resolution, from time to time, by Township Supervisors.

**§27-708. Area and Width Requirements for Principal Buildings Other Than Mobile Homes in Mobile Home Parks.**

- A. **Lot Area and Width.** See table on next page.
- B. **Area of Lot That May Be Occupied By Buildings, Structures and Pavings.** See table on next page.
- C. **Front Yard.** Minimum of forty (40) feet, subject to the provisions of §27-1613.
- D. **Side Yards.** Both side yards shall have a minimum of thirty-five (35) feet in aggregate width and neither shall be less than fifteen (15) feet.
- E. **Rear Yard.** Minimum of thirty (30) feet.
- F. **Height.**
  - (1) Agriculture buildings and agriculture structures - No maximum.
  - (2) All other buildings and structures - Maximum of thirty-five (35) feet.

	<b>Both Public Water and Public Sewer</b>		<b>Public Sewer But No Public Water</b>		<b>No Public Sewer and Water With Or Without Public Water</b>	
	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>
Single-family Detached Dwelling	12,000 sq. ft.	100 feet	20,000 sq. ft.	125 feet	66,000 sq. ft.	150 feet
Single-family Semi-detached Dwelling	12,000 sq. ft. per dwelling unit	50 feet per dwelling unit	20,000 sq. ft. per dwelling unit	60 feet per dwelling unit	40,000 sq. ft. per dwelling unit	80 feet per dwelling unit
Two-family Detached Dwelling	12,000 sq. ft. per dwelling unit	100 feet	20,000 sq. ft. per dwelling unit	125 feet	40,000 sq. ft. per dwelling unit	160 feet
<b>Maximum Coverage for Uses Listed in §27-708(A) above</b>						
Building Coverage	35%		25%		15%	
Lot Coverage	50%		35%		20%	

*(Ord. 2013-362, 10/14/2013, §7)*

**PART 8****AGE QUALIFIED RESIDENTIAL COMMUNITY DISTRICT****§27-801. Permitted Uses.**

- A. Age Qualified Residential Community.
- B. Uses accessory to the Age Qualified Residential Community and specifically restricted to serve only residents of the Age Qualified Residential Community and their invited guests, which shall include, but not be limited to, the following:
  - (1) Community center, including activity rooms, craft rooms, lockers and shower room, library, physical therapy and fitness center, lounges and similar facilities for members of the Age Qualified Residential Community and invited guests.
  - (2) Recreation facilities, such as swimming pool and tennis court.
- C. Single-Family Detached Dwelling.
- D. Agricultural Use. Any farm building used for the keeping or raising of livestock or poultry, or for mushroom cultures, shall be located not less than fifty (50) feet from any street or other property line.
- E. Woodland or game preserve, wildlife sanctuary or other conservation purpose.
- F. Forestry, where conducted in compliance with the provisions of §27-1701.H., and §27-1631, of this Chapter.
- G. No-impact, home-based business.
- H. Any accessory use customarily carried on in conjunction with farming, or incidental to any dwelling or other stated use permitted above.
- I. Community water and sewer plants and treatment facilities as accessory uses to all permitted uses.

**§27-802. Development Regulations.**

- A. Age Qualified Residential Community.
  - (1) Tract and Density Regulations.
    - (a) Minimum gross tract area shall be one hundred fifty (150) acres of land in single and separate ownership at the time of subdivision or

land development approval.

- (b) The maximum density shall be no more than four (4) units per acre of the lot area available for development before deduction of roads or required open spaces.
- (c) Not less than sixty percent (60%) of the lot area forming a part of the gross tract at the time of subdivision or land development approval shall be retained as restricted open space or deeded to the Township or other non-profit entity approved by the Township.

(2) Area and Height Regulations.

- (a) The minimum lot size shall be six thousand (6,000) square feet.
- (b) The minimum lot width shall be fifty (50) feet.
- (c) The minimum building setback from interior streets shall be fifteen (15) feet from the right-of-way line.
- (d) The minimum side yard setback for principle buildings shall be seven and one-half (7½) feet, aggregate of fifteen (15) feet, exclusive of decks, window wells, steps and the like.
- (e) The minimum side yard or rear yard setback for accessory structures shall be five (5) feet.
- (f) The minimum rear yard setback shall be twenty (20) feet, exclusive of decks, window wells, steps and the like.
- (g) The maximum lot coverage shall be sixty percent (60%) of the area available for development.
- (h) The maximum building coverage of all dwelling units shall not exceed thirty percent (30%) of the area available for development.
- (i) The maximum building height shall be thirty-five (35) feet.

(3) General Requirements.

- (a) Sewer. All dwellings and other buildings within an Age Qualified Residential Community shall be served by a public sewer collection and treatment system. If capacity within a public sewer is not immediately available to serve the Community, the developer shall be allowed, subject to the approval by the PaDEP, to construct and operate a community sewer system within the portion of the tract otherwise set aside as open space, or elsewhere.



- (b) Water. All dwellings and other buildings within an Age Qualified Residential Community shall be served by a public water system. If a public water system is not immediately available to serve an Age Qualified Residential Community, the developer shall, subject to the provisions of Oley Township Ordinance No. 321, be allowed to use a community water system.
  - (c) Parking. There shall be a minimum of two (2) off-street parking spaces per dwelling unit, which shall include one (1) space within a garage, either attached or detached, and one (1) located upon the driveway accessing the garage. For each ten (10) age qualified dwelling units, there shall be provided one (1) parking space adjacent to any community center building, and parking shall be provided adjacent to any recreational areas as appropriate for the type of facility.
  - (d) Criteria For Streets.
    - (1) The area available for development shall have direct access (frontage) on a collector or an arterial road, but no individual driveway may enter directly onto a collector or an arterial road.
    - (2) The developer shall not be required to provide any improvements to existing public streets, except along the frontage of the area available for development.
    - (3) Right-of-way and cartway width for new interior streets shall not exceed fifty (50) feet (as to rights-of-way) and thirty-two (32) feet (as to cartway), with parking allowed along one (1) side.
    - (4) New interior streets may intersect in curves, provided that minimum required clear sight triangles are provided.
    - (5) Belgium block curbs shall be provided on both sides of all proposed streets.
    - (6) Sidewalk with a width of four (4) feet shall be provided along one (1) side of all proposed streets.
  - (e) All proposed streets within a development shall be offered to and may, at its sole discretion, be accepted for dedication by Oley Township.
- (4) Miscellaneous Provisions.
- (a) All drainage and utility easements shall be twenty (20) feet in width, shall be offered for dedication to Oley Township, and shall be included in the calculation of minimum lot area.

- (b) Except for the requirements of Section (4)(i), there shall be no mandatory requirement for the developer to improve the open space by providing recreational facilities or activities, or for landscaping, except that the developer may, at its sole discretion, place excess soil from the development on the open space land, provided that the same is graded and seeded.
- (c) Steep slope and woodland preservation restrictions shall not be applicable to the AQRC District.
- (d) Stormwater drainage and control facilities shall be designed to control the anticipated peak discharge from the property being developed and the existing conditions of any upstream property.
- (e) Landscape berms and vegetative screening shall be provided along the external road, between the road right-of-way and the rear of any residential lots. All landscaping shall be placed within a buffer yard of fifty (50) feet or more, measured from the right-of-way. Plantings may be placed in required open space.
- (f) Street trees shall be provided along proposed streets at a minimum rate of one (1) tree per every two (2) lots, not to exceed one hundred fifty (150) feet separation.
- (g) Ownership of open space not dedicated to the Township or other non-profit agency shall be in accordance with the Pennsylvania Planned Residential Community Act.
- (h) Lighting facilities shall be provided as needed, and arranged in a manner which shall protect the highway and neighboring properties and streets from unreasonable direct glare and hazardous interferences of any kind. Lighting facilities shall be required where deemed necessary for the safety and convenience of the residents of the Community.
- (i) Recreation areas and facilities shall be provided to meet the anticipated needs of the residents of the development, and shall be of such size and shape as to be conducive to active and passive recreation.
- (j) Any proposed Homeowners' Association Agreement created for the community shall be provided to the Township for review and comment, and a copy of the final document shall be filed with the Township.

## B. All Other Designated Uses.

- (1) Minimum Lot Area – Two (2) acres.
- (2) Minimum Lot Width – Two hundred (200) feet.
- (3) Lot Coverage.
  - (a) Maximum area of a lot which may be occupied by buildings or structures – Ten percent (10%).
  - (b) Maximum area of a lot which may be paved – Five percent (5%).
- (4) Front Yard – Minimum of fifty (50) feet, subject to the provisions of §27-1613.
- (5) Side Yards – Minimum of fifty (50) feet each.
- (6) Rear Yard – Minimum of fifty (50) feet.
- (7) Height.
  - (a) Agricultural buildings and agricultural structures – No maximum.
  - (b) All other buildings and structures – Maximum of thirty-five (35) feet.
- (8) Parking Area Setbacks - Parking areas shall be set back from property lines according to the following:
  - (a) Front – No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance (Chapter 22).
  - (b) Side and Rear – Thirty (30) feet.

**§27-803. Occupancy Restrictions For An Age Qualified Residential Community.**

- A. No more than four (4) persons shall occupy a dwelling on a permanent basis, at least one (1) of whom shall be fifty-five (55) years of age or older. No persons under the age of eighteen (18) years shall occupy a dwelling, except during summer months or during holidays.
- B. Occupants, if unrelated by blood or marriage, shall be fifty-five (55) years of age or older.
- C. An underage resident who shall survive the death of an age qualified spouse shall be permitted to continue to occupy the dwelling; provided that the continued occupancy does not violate the Federal Fair Housing Act.

- D. On or before December 31<sup>st</sup> of each year, the Homeowners' Association, or any other entity responsible for the operation and management of the Age Qualified Residential Community, shall supply the Township with the names, addresses and birth dates of all residents in the Community.

**§27-804. Declaration of Age Restriction For An Age Qualified Residential Community.**

At the time of subdivision and land development, as a prerequisite to the recording of any approved Final Plan for an Age Qualified Residential Community, the developer shall record a Declaration against the entire tract, in a form reasonably acceptable to the Township, binding all properties and owners to the restriction which shall require that at least one (1) of the permanent residents of an individual dwelling unit within the AQRC District to be age fifty-five (55) or older, and which shall require that any residents of an individual dwelling unit within the AQRC District under the age of eighteen (18) years old shall not reside in that dwelling unit except during summer months or during holidays.

*(Ord. 2013-362, 10/14/2013, §8)*

**PART 9****V - VILLAGE DISTRICT****§27-901. V - Village District.**

- A. The V - Village District recognizes the existing development which has occurred in the Village of Oley and permits the continuation of such mixing of residential, commercial and public uses at a compatible density, and subject to conforming with the village design standards contained in this Part. All uses are required to utilize available public sewer and water facilities.
- B. In the V District, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-902. Use Regulations.**

- A. Uses Permitted By Right. A principal building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and no other:
- (1) Single-family detached dwelling, single-family semidetached dwelling or two-family detached dwelling.
  - (2) Retail store.
  - (3) Restaurant, not including drive-in restaurant or fast-food restaurant.
  - (4) Office, agency or studio.
  - (5) Club or lodge.
  - (6) Bank.
  - (7) Personal service shop, such as barber shop, beauty shop and clothes cleaning and pressing pickup agency.
  - (8) Custom or repair shop for the repair or servicing of clothing or household articles or for making articles to be sold at retail on the premises, such as shoe repair shop, radio or television repair shop, jewelry shop, tailor or dressmaking shop, bakery or confectionary shop.
  - (9) Township building, post office, library, telephone central office or emergency service facility for fire and ambulance apparatus.
  - (10) Conversion of single-family detached dwelling to apartments, subject to:

- (a) Each dwelling unit shall have at least 600 square feet of floor area for a one bedroom unit and not less than an additional 200 square feet for each additional bedroom.
  - (b) Two (2) off-street parking spaces shall be provided for each dwelling unit.
  - (c) The lot shall contain at least 4,356 square feet per dwelling unit.
- (11) Apartment buildings and townhouses, subject to:
- (a) The lot shall contain at least 4,356 square feet per dwelling unit.
  - (b) No apartment building shall be closer than forty (40) feet to any other building on the lot and no townhouse shall be closer than forty (40) feet to any other building on the lot, except another townhouse in the same contiguous grouping of townhouses.
  - (c) A minimum of fifteen (15) percent of the lot shall be permanently devoted to common open space purposes.
  - (d) Minimum front, rear and side yards shall be twenty-five (25) feet.
  - (e) No more than six (6) townhouses shall be permitted in any contiguous grouping.
- (12) Forestry, where conducted in compliance with the provisions of §27- 1701.H., and §27-1631 of this Chapter.
- (13) No-impact home-based business.
- (14) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
- (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of five hundred (500) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special

exception, subject to the general standards prescribed in §27-2007.B.

- (1) Theater, meeting hall, community center and similar indoor places for amusement, recreation or assembly, not to include bowling alleys and skating rinks.
- (2) Automatic self-service laundry or dry cleaning establishment.
- (3) Governmental or public utility use other than a use permitted in this district above, provided that the Board shall determine that the placement of such use in the proposed location is appropriate or a public necessity.
- (4) Outdoor farmers market, subject to the provisions of Section 27-1626 of this Chapter.
- (5) Park, playground, or similar noncommercial recreational area owned and operated by a public or private nonprofit agency.
- (6) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than five hundred (500) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are five hundred (500) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

C. Uses Permitted Subject to Conditional Use Approval.

The following uses may be permitted when approved as a conditional use by the

Board of Supervisors.

- (1) More than one principal use on a lot or parcel.
- (2) Motor vehicles service station (not including car sales lot or automobile care wash as a main use), provided that all facilities are located and all services are conducted within the confines of the lot.
- (3) Church or other place of worship, Sunday School, parish house.
- (4) Day care center, nursery school, elementary school, middle school, junior high school or senior high school.

D. Accessory Uses.

Accessory building or use on the same lot with and customarily incidental to any of the foregoing permitted uses, including but not limited to:

- (1) Home occupations pursuant to §27-1614 of this Chapter.
- (2) Bed and breakfast inn pursuant to §27-1615 of this Chapter.
- (3) Signs pursuant to Part 19 of this Chapter.

**§27-903. Area, Height and Special Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following area, height, and special regulations, unless otherwise provided for in this Chapter:

A. **Lot Area and Width.**

- (1) **Minimum Lot Area** - 6,000 square feet (Public sewer and water required).
- (2) **Minimum Lot Width** - fifty (50) feet.

B. **Building Coverage.** A maximum of fifty (50) percent.

C. **Lot Coverage.** A maximum of seventy (70) percent.

D. **Yards.**

- (1) **Front Yard.** Minimum of twenty-five (25) feet, provided that if parking is provided for in the front yard, the minimum shall be fifty (50) feet subject to the provisions of §27-1613.
- (2) **Side Yards.** Minimum of ten (10) feet for each side.



- (3) **Rear Yard.** Minimum of twenty-five (25) feet.
- E. **Height.** Maximum of thirty-five (35) feet.
- F. **Exceptions to Yard Requirements.**
  - (1) **Front Yard Exceptions.** Where a new principal building is proposed within fifty (50) feet of an existing principal building, the minimum front yard setback applicable to the proposed new building may be reduced to the actual setback of the principal building within fifty (50) feet, subject to conditional use approval.
  - (2) **Accessory Building Setback Exceptions.** On any lot on which a principal building existed at the effective date of this Chapter, an accessory building to such existing principal building which is constructed after the effective date of this Chapter does not have to be set back further from any street right-of-way than that principal building.
  - (3) **Side Yard Exceptions.** In the case of a lot on which a principal residential building existing at the effective date of this Chapter, and said building does not comply with the side yard requirements of this Chapter, that building or an accessory building thereto may be expanded or constructed into the violated side yard provided that such expansion or construction will not be situated closer to the side property line than the existing principal residential building on the lot, will not result in any violation of any Township Building Code, and written permission is secured from the property owner abutting the violated side yard.
  - (4) **Rear Yard Exceptions.** In the case of a lot on which a principal residential building existed at the effective date of this Chapter, and said building does not comply with the rear yard requirements of this Chapter, that building may be expanded into the violated rear yard provided that such expansion will not be situated closer to the rear lot line than the existing principal residential building on the lot and, it will not result in any violation of any Township Building Code and written permission is secured from all property owners abutting the rear yard. A residential accessory building may be erected within the required rear yard provided the adjoining property has a nonconforming accessory building within this required rear yard and if the erection will not result in a violation greater than occurs on immediately adjacent properties to the subject property, and provided that all building separation requirements of any Township Building Code are met and provided that written permission is secured from all property owners abutting the rear yard.
- G. **Parking Area Setbacks.** Parking areas shall be set back from property lines according to the following:

- (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
- (2) **Rear and Side.** A minimum of ten (10) feet.

#### **27-904. Village Design Standards.**

Every principal building, group of principal buildings on a lot or use shall comply with the following Village Design Standards, unless otherwise provided for in this Chapter:

- A. Coverage Limitation For One-Story Buildings. Not more than fifty (50) percent of the area of the lot shall be covered by buildings or structures, except that not more than twenty (20) percent of the area of the lot shall be occupied by buildings or structures less than one and one-half (1½) stories in height. For this purpose, one-half story shall mean a roof-story with sufficient height and space within the form of a pitched roof to permit the development of habitable or leasable space, whether or not any actually is proposed.
- B. Relaxation of Height Limits. No structure or principal building with two (2) or less stories shall exceed thirty-five (35) feet in height. A principal three-story building may be permitted, provided it does not exceed a maximum height of forty-five (45) feet. As a condition of Conditional Use approval, the Board of Supervisors may permit roof structures above the cornice line which exceed the applicable height limit, where the Board agrees that such structures enhance the appearance of the overall design.
- C. Individual Building Size Restriction. No individual building shall contain more than 6,000 square feet of building area. Additional square footage above 6,000 shall be permitted within an additional story or stories above the first or ground floor, and/or where permitted subject to Conditional Use approval in accordance with Subsection D. below. For purposes of this Section, an individual building shall be considered as a space or contiguous spaces fully separated from any other building or, where abutting, where separated by permanent walls; two (2) or more abutting buildings shall be considered as an individual building where not separated by permanent walls.
- D. Architectural Design. To the extent practicable, all new construction and/or additions to existing structures within the Oley Village area shall be designed with either a traditional village architectural character or may be a contemporary expression of traditional styles and forms, respecting the scale, proportion, roof pitch, character, and materials of historic examples in Oley Township and the surrounding area, in accordance with the following standards:
  - (1) Where any individual building façade (or adjoining facades which abut flush to the same building line) is visible from any public right-of-way or public space (including internal public spaces within a development) and exceeds sixty (60) feet in length, there shall be a clear dimensional differentiation of

roofline (i.e., an obvious difference in height) and/or an offset in facade of at least ten (10) feet, effectively breaking the single facade into two (2) or more facades each no more than sixty (60) feet in length. Where approved by the Board of Supervisors as a Conditional Use, single facades greater than sixty (60) feet in length may be permitted, where Applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings and landscaped areas mitigates any negative impacts of long continuous building facade(s) on the character of Oley Village. Mitigating factors may include design which emulates characteristic historical building forms which typically included relatively long individual facade lengths such as barns, stables, churches, meeting houses, or other public buildings. Building arrangements which rely on repeated use of the same long facade element shall not be approved.

- (2) New construction shall generally have pitched roofs with overhanging eaves. Where flat roofs are provided, they shall be articulated with parapets and cornices. Desired materials on pitched roofs include slate (either natural or manmade), shingle (either wood or asphalt composition), and metal formed to resemble “standing seams”. Roof color should reflect local traditional use of color, and shall specifically exclude white, tan, or blue shingles, red clay tiles, and corrugated metal. The use of fascias, dormers, and gables is encouraged to provide visual interest.
- (3) Exterior wall materials may include stucco, wood clapboard (including vinyl or aluminum imitation clapboard siding), native stone, brick, or other material of a shape, color, and texture similar to that found on historic structures in the vicinity.
- (4) All facilities and equipment for heating/air conditioning, trash collection and compaction, and other structural elements not in keeping with historical architectural themes shall be concealed architecturally or otherwise screened from view from any public right-of-way or public space (including internal public spaces within a development).

E. Pedestrian and Vehicular Access.

- (1) Pedestrian access shall be designed to provide convenient, safe, and direct access between the various uses within the Oley Village area and other nearby concentrations of development.
- (2) Sidewalks shall generally be provided across the frontage of each lot as determined by the Township and, where practicable, shall be separated from street curbs by a planting strip no less than five (5) feet wide, planted in accordance with the landscaping provisions of Section 27-1633. Design and location of sidewalks may be adjusted as necessary to permit conservation of significant existing vegetation, historic structures or other significant landscape features.

- (3) Where provided, sidewalks shall be constructed of brick, concrete, concrete pavers, or concrete with brick borders; selection of paving material(s) shall be compatible with that existing or planned on neighboring properties. Sidewalks shall be no less than four(4) feet in width and may, at the discretion of the Township, be required to be eight (8) to ten (10) feet in width along the frontage of commercial or mixed-use properties or where streetscape amenities such as benches, trash receptacles, bicycle racks or similar amenities are or are intended to be provided.
  - (4) Vehicular access shall be designed to limit the number of new access points to public roads and to limit potential for turning movement conflict. Where practicable, access to adjoining parcels shall be combined so as to limit potential turning movement and pedestrian movement conflicts.
  - (5) Parking areas shall be designed and landscaped so as to appear broken in mass, in proportion to the scale of structural development. Coordination of access to parking areas and shared parking among adjacent uses shall be required wherever practicable. Parking shall not be provided in the front yard, except where approved by the Board of Supervisors as a condition of Conditional Use approval, where the Board is satisfied that no other practicable location is available for required parking. To the greatest extent practicable, all off-street parking shall be located at the rear of the lot, accessed by private alleys or driveways, and shall be screened from view from any public street, non-motorized accessway, or neighboring residence. On-street parking shall be permitted wherever practicable and shall be included in the calculation of available parking.
  - (6) To the extent that parking areas are visible from public streets, visual impacts shall be mitigated through introduction of landscape screening, landscape walls, use of pedestrian paving materials, or other design means. On- and off-street parking areas shall utilize pervious paving materials to the greatest extent practicable in order to maximize potential for groundwater infiltration.
  - (7) Streets shall be designed to calm traffic speeds and promote pedestrian movement. Applicants shall refer to the Traffic Calming Handbook published by the Pennsylvania Department of Transportation (PennDOT).
  - (8) Where practicable, alleys shall be provided to move vehicular access to the rear of the principal structures and thereby improve the appearance of the streetscape.
- F. Streetscape Design and Landscaping. All lands not utilized to provide for permitted impervious cover shall be left in their natural state or landscaped with appropriate vegetation or other suitable landscape material in accordance with Section 27-1633 of this Chapter. In addition, streetscape landscaping and pedestrian amenities shall be provided as necessary to meet overall village planning objectives and as reasonably related to the intensity of proposed development. Streetscape design and

landscaping shall be coordinated with adjacent properties. Where appropriate, the Township may require any of the following streetscape amenities, including provision for their regular upkeep and maintenance:

- (1) At least one public trash receptacle in each block;
- (2) Public benches of approved design at intervals of no greater than one hundred (100) feet on each block;
- (3) At least one bike rack on each block, located in areas where the sidewalk width has been designed to accommodate such features;
- (4) Landscape plantings and shade trees;
- (5) Sidewalks as set forth in Subsection E.2.; or
- (6) Green spaces designed to serve a variety of outdoor leisure and assembly needs of village residents and visitors, and to enhance the form and appearance of the Oley Village area. Where provided, such green spaces may be offered for dedication to the Township, which offer the Township shall not be obligated to accept.

*(Ord. 2013-362, 10/14/2013, §9)*

**PART 10****HV – HISTORIC VILLAGE DISTRICT****§27-1001. Historic Village District.**

- A. The HV- Historic Village District recognizes the historic character of the Village of Spangsville, and permits the continuation of existing uses in addition to compatible residential and commercial uses.
- B. In the HV District, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-1002. Use Regulations.****A. Uses Permitted By-Right.**

A principal building or group of principal buildings maybe erected, altered or used, and a lot may be used or occupied for any of the following purposes and no other:

- (1) Single-family detached dwelling, single-family semi-detached dwelling or two-family detached dwelling.
- (2) Forestry, where conducted in compliance with the provisions of §27-1701.H., and §27-1631, of this Chapter.
- (3) No-impact home-based business.
- (4) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of five hundred (500) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.

**B. Uses Permitted By Special Exception.**

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:

- (1) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than five hundred (500) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are five hundred (500) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

C. Accessory Uses.

Any accessory use customarily carried on in conjunction with and incidental to any dwelling or other principal use permitted above, such as:

- (1) Home occupations pursuant to §27-1614 of this Chapter.
- (2) Bed and breakfast inn pursuant to §27-1615 of this Chapter.
- (3) Signs pursuant to Part 19 of this Chapter.

**§27-1003. Area, Height and Special Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following area, height and special regulations, unless otherwise provided for in this Chapter:

- A. Lot Area and Width.
  - (1) Minimum Lot Area - 66,000 square feet.
  - (2) Minimum Lot Width - 150 feet.
- B. Building Coverage – A maximum of fifteen (15) percent.
- C. Lot Coverage – A maximum of twenty (20) percent.
- D. Yards.
  - (1) Front Yard – A minimum of fifty (50) feet.
  - (2) Side Yards – A minimum of twenty-five (25) feet for each side.
  - (3) Rear Yard – A minimum of fifty (50) feet.
- E. Height. Maximum of thirty-five (35) feet.
- F. Parking Area Setbacks. Parking areas shall be set back from property lines according to the following:
  - (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
  - (2) **Side and Rear.** A minimum of twenty-five (25) feet.
- G. Exceptions to Yard Requirements.
  - (1) **Front Yard Exceptions.** Where a new principal building is proposed within fifty (50) feet of an existing principal building, the minimum front yard setback applicable to the proposed new building may be reduced to the actual setback of the principal building within fifty (50) feet, subject to conditional use approval.
  - (2) **Accessory Building Setback Exceptions.** On any lot on which a principal building existed at the effective date of this Chapter, an accessory building to such existing principal building which is constructed after the effective date of this Chapter does not have to be set back further from any street right-of-way than that principal building.
  - (3) **Side Yard Exceptions.** In the case of a lot on which a principal residential building existed at the effective date of this Chapter, and said building does not comply with the side yard requirements of this Chapter, that building may be expanded or constructed into the violated side yard; provided that such expansion or construction will not be situated closer to the side property line than the existing principal residential building on the lot and will not



result in any violation of any Township Building Code and written permission is secured from the property owner abutting the violated side yard.

*(Ord. 2013-362, 10/14/2013, §10)*

**PART 11****RV – RURAL VILLAGE DISTRICT****§27-1101. Rural Village District.**

- A. The RV - Rural Village District recognizes the existing development which has occurred in the Village of Yellow House and permits the continuation of such mixing of residential, commercial and public uses.
- B. In the RV District, the following shall apply subject also to all other applicable requirements of this Chapter.

**§27-1102. Use Regulations.****A. Uses Permitted By Right.**

A principal building or group or principal buildings may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Single-family detached dwelling, single-family semi-detached dwelling or two-family detached dwelling.
- (2) Retail store, not including a group of retail stores.
- (3) Restaurant, not including drive-in restaurant or fast food restaurant.
- (4) Office or studio, including an office for massage therapy by a licensed massage therapist, not to exceed five hundred (500) square feet of net office space, and five (5) employees maximum.
- (5) Personal service shop, such as barber shop or beauty shop, limited to one(1) barber or operator, subject to suitable sewage disposal for dyes and other wastes.
- (6) Custom or repair shop for the repair or servicing of clothing or household articles or for making articles to be sold at retail on the premises, such as shoe repair shop, radio or television repair shop, jewelry shop, tailor or dressmaking shop, baking confectionery shop. Permitted uses are limited to three employees on location at any one time in addition to the proprietor, and shall not create dust, odor or audible noise outside the building in which the use is being conducted.
- (7) Conversion of single-family detached dwelling to apartments, subject to:
  - (a) Each dwelling unit shall have at least six hundred (600) square feet of

floor area for a one bedroom unit, and not less than an additional two hundred (200) square feet for each additional bedroom.

- (b) Adequate potable water and sewage facilities for all units shall be provided.
  - (c) Two off-street parking spaces shall be provided for each unit and other parking requirements of §27-1609 shall be met.
- (8) Apartment buildings, subject to:
- (a) The lot shall contain at least 11,000 square feet per dwelling unit.
  - (b) No apartment building shall be closer than forty (40) feet to any other building on the lot.
  - (c) A minimum of fifteen (15) percent of the lot shall be permanently devoted to common open space purposes.
  - (d) Minimum front, rear and side yards shall be twenty-five (25) feet.
  - (e) Adequate potable water and sewage facilities shall be provided for all units.
  - (f) Two off-street parking spaces shall be provided for each unit and other parking requirements of §27-1609 shall be met.
- (9) Forestry, where conducted in compliance with the provisions of §27- 1701.H., and §27-1631, of this Chapter.
- (10) No-impact home-based business.
- (11) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
- (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of five hundred (500) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:

- (1) Meeting hall or community center.
- (2) Motor vehicles service station (not including vehicle sales lot or automatic car/truck wash) provided that all facilities are located and all services are conducted within the confines of the lot.
- (3) Day care center or nursery school.
- (4) Churches and related religious uses.
- (5) Governmental or public utility use other than a use permitted in this district above, provided that the Board shall determine that the placement of such use in the proposed location is a public necessity.
- (6) Park, playground or similar noncommercial recreational area owned and operated by a public or private nonprofit agency.
- (7) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than five hundred (500) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are five hundred (500) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

## C. Accessory Uses.

Any accessory use customarily carried on in conjunction with and incidental to any dwelling or other principal use permitted above, such as:

- (1) Home occupations pursuant to §27-1614 of this Chapter.
- (2) Bed and breakfast inn pursuant to §27-1615 of this Chapter.
- (3) Signs pursuant to Part 19 of this Chapter.

**§27-1103. Area, Height and Special Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following area, height and special regulations, unless otherwise provided for in this Chapter:

## A. Lot Area and Width.

- (1) Minimum Lot Area - 40,000 square feet.
- (2) Minimum Lot Width – one hundred (100) feet.

## B. Lot Coverage. A maximum of fifty (50) percent.

## C. Yards.

- (1) **Front Yard.** A minimum of twenty-five (25) feet, provided that if parking is provided for in the front yard, the minimum shall be fifty (50) feet subject to the provisions of §27-1413.
- (2) **Side Yards.** A minimum of ten (10) feet for each side.
- (3) **Rear Yard.** A minimum of fifty (50) feet.

## D. Height. A maximum of thirty-five (35) feet

## E. Exceptions to Yard Requirements.

- (1) **Front Yard Exceptions.** Where a new principal building is proposed within fifty (50) feet of an existing principal building, the minimum front yard setback applicable to the proposed new building may be reduced to the actual setback of the principal building within fifty (50) feet, subject to conditional use approval.
- (2) **Accessory Building Setback Exceptions.** On any lot on which a principal building existed at the effective date of this Chapter, an accessory building to

such existing principal building which is constructed after the effective date of this Chapter does not have to be set back further from any street right-of-way than that principal building.

- (3) **Side Yard Exceptions.** In the case of a lot on which a principal residential building existed at the effective date of this Chapter, and said building does not comply with the side yard requirements of this Chapter, that building may be expanded or constructed into the violated side yard; provided that such expansion or construction will not be situated closer to the side property line than the existing principal residential building on the lot and will not result in any violation of any Township Building Code and written permission is secured from the property owner abutting the violated side yard.

F. **Parking Area Setbacks.** Parking areas shall be set back from property lines according to the following:

- (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
- (2) **Side and Rear.** A minimum of ten (10) feet.

*(Ord. 2013-362, 10/14/2013, §11)*

**PART 12****LB – LOCAL BUSINESS DISTRICT****§27-1201. LB - Local Business District.**

- A. The LB - Local Business District is designed to encourage the provision of planned, integrated retail centers, comprising a group of related business uses and designed as a single architectural scheme with adequate provision for off-street parking and highway access.
- B. In the LB District, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-1202. Use Regulations.**

- A. Uses Permitted By Right. A principal building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:
  - (1) Single-family detached dwelling, single-family semi-detached dwelling or two-family detached dwelling.
  - (2) Retail store.
  - (3) Restaurant, not including drive-in restaurant or fast-food restaurant.
  - (4) Office, agency or studio, including an office for massage therapy by a licensed massage therapist.
  - (5) Club or lodge.
  - (6) Bank, not including drive-thru.
  - (7) Personal service shop, such as barber shop, beauty shop and clothes cleaning and pressing pickup agency and dry cleaning establishment.
  - (8) Custom or repair shop for the repair or servicing of clothing or household articles or for making articles to be sold at retail on the premises, such as shoe repair shop, radio or television repair shop, jewelry shop, tailor or dressmaking shop, bakery or confectionery shop.
  - (9) Township building, post office, library, telephone central office or similar governmental or public utility use.
  - (10) No-impact home-based business.

- (11) Forestry, where conducted in compliance with the provisions of §27-1701.H., and §27-1631, of this Chapter.
- (12) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.:

- (1) Theater, meeting hall, community center and similar indoor places for amusement, recreation or assembly, not to include bowling alleys, skating rinks and similar uses.
- (2) Automatic self-service laundry or dry cleaning establishment.
- (3) Governmental or public utility use other than a use permitted in this Section above, provided that the Board shall determine that the placement of such use in the proposed location is appropriate or a public necessity.
- (4) Home occupation pursuant to §27-1614 of this Chapter.
- (5) Outdoor farmers market pursuant to Section 27-1626 of this Chapter.
- (6) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than eight hundred (800) square feet in surface area, only when proposed in the



rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.

- (c) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
  - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
  - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

C. Uses Permitted Subject to Conditional Use Approval.

The following uses may be permitted when approved as a conditional use by the Board of Supervisors.

- (1) More than one principal use on a lot or parcel.
- (2) Drive-thru bank.
- (3) Church or other place of worship, Sunday School, parish house.
- (4) Day care center, nursery school, elementary school, middle school, junior high school or senior high school.
- (5) Grower/Processor Facility.
- (6) Medical Marijuana Delivery Vehicle Office.

D. Accessory Uses.

- (1) Accessory building or use on the same lot with and customarily incidental to any of the foregoing permitted uses.
- (2) Signs pursuant to Part 19 of this Chapter.

*(Ord. 371, 05/08/2017, §4)*

**§27-1203. Area, Height and Special Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following area, height and special regulations:

**A. Lot Area and Width.****(1) Minimum Lot Area.**

- (a) Public water and sewer available – 15,000 square feet.
- (b) Without public sewer available – 40,000 square feet.

**(2) Minimum Lot Width – one hundred (100) feet.****B. Maximum Coverages.**

**(1) Building Coverage**                      Forty (40) percent.

**(2) Lot Coverage**                              Sixty-five (65) percent.

**C. Yards.**

**(1) Front Yard.** Minimum of twenty-five (25) feet, provided that if parking is provided for in the front yard, the minimum shall be fifty (50) feet and subject to the provisions of §27-1613.

**(2) Side Yards.** Minimum of ten (10) feet for each side.

**(3) Rear Yard.** Minimum of twenty-five (25) feet.

**(4) Exception.** Where a new principal building is proposed within fifty (50) feet of an existing principal building, the minimum front yard setback applicable to the proposed new building may be reduced to the actual setback of the principal building within fifty (50) feet, subject to conditional use approval.

**D. Open Area.** Minimum of ten (10) percent.

**E. Height.** Maximum of thirty-five (35) feet.

**F. Parking Area Setbacks.** Parking areas shall be set back from property lines according to the following:

**(1) Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].

**(2) Side and Rear.** A minimum of ten (10) feet.

**G. Special Procedural Requirements.**

**(1)** The application for a permit to construct a store or a permitted use on a lot shall be accompanied by a plan. Such plan shall comply with the provisions of the Township and Subdivision and Land Development Ordinance [Chapter

22] and shall be subject to review under said Chapter by the Planning Commission and approved by the Board of Supervisors.

- (2) The request for a permit to construct a use referred to in §27-1202.C.1. above shall be accompanied by the following information:
  - (a) A plan for the integrated development of the total area to be developed which shall be drawn to scale and shall include among other things:
    - i. The location, boundaries, dimensions and ownership of the land to be included in the area for which application is made.
    - ii. The location, dimensions, arrangement and proposed use of all buildings and open spaces, yards, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, buffer areas and screening devices.
  - (b) A description of the provisions made for sewage and waste disposal, water supply and stormwater drainage.
  - (c) Sufficient data, in all instances, to enable the Township to judge the effectiveness of the design and the character of the proposed use, its compliance with the requirements of this Part and to consider properly such things as its relationship to surrounding areas, anticipated traffic, public health, safety and welfare.

#### H. **Special Design Requirements.**

- (1) Each permitted use, other than a parking lot, off-street loading facility or public utility, shall be conducted within a completely enclosed building.
- (2) Along each side or rear property line which abuts another RU, RA or RMH District boundary line, a buffer yard not less than twenty-five (25) feet in width shall be provided and screening established in conformance with the Landscape and Screening provisions of Section 27-1633.
- (3) No storage of merchandise, articles or equipment shall be permitted outside a building and no self-service gasoline station or similar use shall be permitted on a lot.
- (4) If there is more than one building or use on a single lot:
  - (a) The proposed development shall be designed as, or as part of, a single architectural and landscaping scheme.
  - (b) The group of buildings as a whole shall comply with the area and yard regulations of the district.

- (c) The distance at the closest point between any two buildings or groups of buildings shall be at least as great as the average height of the two (2) adjoining buildings and not less than twenty (20) feet.
- (5) Each use shall comply with the provisions of §§27-1609, 27-1610 and 27-1612, relating to parking, loading, access and highway frontage development and with any other applicable general requirements of this Chapter.

**§27-1204. Village Design Standards**

- A. Every principal building, group of principal buildings on a lot or use permitted in this District shall comply with the Village Design Standards of §27-904, unless otherwise provided for in this Chapter.

*(Ord. 2013-362, 10/14/2013, §12)*

**PART 13****HB – HIGHWAY BUSINESS DISTRICT****§27-1301. HB - Highway Business District.**

- A. The HB – Highway Business District is designed primarily to provide for the special requirements of a wide-range of highway oriented and service type business establishments and to encourage the sound and attractive commercial development of highway frontage.
- B. In HB - Business Districts, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-1302. Use Regulations.****A. Uses Permitted By Right.**

A principal building or group of principal buildings may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and no other:

- (1) Any nonresidential use permitted by right in LB - Local Business Districts.
- (2) Wholesale, office or showroom, contractor or general service shop including machine shop, carpentry, plumbing, lumber mill, planning mill or any similar shop.
- (3) Bed and breakfast inn pursuant to §27-1615.
- (4) Indoor place of amusement, recreation or assembly.
- (5) Warehouse in conjunction with a permitted use, frozen food locker.
- (6) Laundry or dry cleaning plant, provided that no flammable liquids are utilized.
- (7) Business or trade school.
- (8) Job printing or publishing establishment.
- (9) Mortuary.
- (10) No-impact home-based business.
- (11) Forestry, where conducted in compliance with the provisions of §27-1701.H. and §27-1631 of this Chapter.

- (12) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.

B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.

- (1) Indoor storage building other than permitted in this Section above, and outdoor storage of building materials or products of manufacturing uses permitted in the Township (but not including junk yard or similar use), provided that the area used for storage is suitably screened from the surrounding area by a satisfactory fence, wall, planting or other barrier which is not less than six (6) feet in height.
- (2) Wholesale business establishment other than permitted in this Section above.
- (3) Commercial greenhouse or nursery.
- (4) Bakery, drive-in restaurant or refreshment stand.
- (5) Car sales lot or trailer sales agency.
- (6) Automobile car wash, on a lot area of not less than 20,000 square feet, provided that:
  - (a) No portion of the lot used for washing shall be within two hundred (200) feet of a residence district boundary line.
  - (b) All washing operations shall be conducted within an enclosed building or structure.
  - (c) A minimum of ten (10) off-street customer parking or waiting spaces be provided on the same site for each car washing stall or space. The location of parking shall be such as not to require the re-entry of cars into the street or the recrossing of sidewalks to gain access into the

actual car washing facilities.

- (d) No water from the car washing activities to be discharged onto a public street or adjacent property.
- (7) Hotel or motel, on a lot not less than two (2) acres in size, provided that the location is appropriate for the use.
- (8) Kennels pursuant to §27-1616 of this Chapter.
- (9) Outdoor flea market pursuant to §27-1622 of this Chapter.
- (10) Renewable energy systems. The following uses may be allowed by Special Exception approval by the Zoning Hearing Board, and subject to the provisions of §27-1630:
  - (a) Building-mounted Solar Energy Systems on a building or structure shown on the Oley Township Historic Resource Inventory, and only when the system is proposed for installation on the rear-facing components of the building or structure; i.e., the system is not visible from the public way.
  - (b) Ground-mounted Solar Energy Systems that are less than eight hundred (800) square feet in surface area, only when proposed in the rear yard of a building or structure shown on the Oley Township Historic Resource Inventory, and only when not visible from the public way.
  - (c) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
    - i. Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
    - ii. Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.

C. Uses Permitted Subject to Conditional Use Approval.

The following uses may be permitted when approved as a conditional use by the Board of Supervisors:

- (1) Two or more principal uses on a single lot or parcel.
- (2) Motor vehicle service station, motor vehicle sales agency, public garage or automobile repair shop (but not to include outdoor car sales lot, automobile

carwash or trailer sales agency as a main use), provided that all facilities are located and all services are conducted within the confines of the lot. All repairs must be conducted inside a building. All parts must be stored inside a building.

- (3) Mini-warehouse.
- (4) Outdoor place of amusement, recreation or assembly.
- (5) Distributing or trucking establishment.
- (6) Grower/Processor Facility.
- (7) Medical Marijuana Delivery Vehicle Office.
- (8) Dispensary Facility.

D. Accessory Uses.

- (1) Accessory building or use on the same lot with and customarily incidental to any of the foregoing permitted uses, and signs when erected and maintained in accordance with the provisions of Part 19 of this Chapter.

*(Ord. 371, 05/08/2017, §5)*

**§27-1303. Area, Height and Special Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following area, height and special design regulations:

A. Lot Area and Width.

- (1) Minimum Lot Area.
  - (a) Public water and sewer available – 15,000 square feet.
  - (b) Without public sewer available – 40,000 square feet.
- (2) Minimum Lot Width – one hundred (100) feet.

B. Maximum Coverages.

- (1) Building Coverage:                   thirty-five (35) percent
- (2) Lot Coverage:                         sixty-five (65) percent



## C. Yards.

- (1) **Front Yard.** Minimum of fifty (50) feet, subject to the provisions of §27-1613, and provided that parking shall not be permitted within ten (10) feet of any street line.
- (2) **Side Yards.** Two yards, a minimum of twenty (20) feet each.
- (3) **Rear Yard.** Minimum of thirty (30) feet.
- (4) **Exception.** Where a new principal building is proposed within fifty (50) feet of an existing principal building, the minimum front yard setback applicable to the proposed new building may be reduced to the actual setback of the principal building within fifty (50) feet, subject to conditional use approval.

## D. Height. Maximum of thirty-five (35) feet.

## E. Parking Area Setbacks. Parking areas shall be set back from property lines according to the following:

- (1) **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
- (2) **Side and Rear.** A minimum of ten (10) feet.

## F. Special Procedural Requirements.

- (1) The application for a permit to construct two or more stores or permitted uses on a lot shall be accompanied by a plan in compliance with the provisions of the Township Subdivision and Land Development Ordinance [Chapter 22], and shall be subject to review under said Chapter by the Planning Commission and approved by the Board of Supervisors.
- (2) The request for a permit to construct a use referred to in (1) above shall be accompanied by the following information:
  - (a) A plan for the integrated development of the total area to be developed which shall be drawn to scale and shall include, among other things:
    - i. The location, boundaries, dimensions and ownership of the land to be included in the area for which application is made.
    - ii. The location, dimensions, arrangement and proposed use of all buildings and open spaces, yards, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, buffer areas and screening devices.

- (b) A description of the provisions made for sewage and waste disposal, water supply and storm water drainage.
- (c) Sufficient data, in all instances, to enable the Township to judge the effectiveness of the design and the character of the proposed use, its compliance with the requirements of this Part and to consider properly such things as its relationship to surrounding area, anticipated traffic, public health, safety and welfare.

G. Special Design Requirements.

- (1) No operation, equipment or use shall be harmful or hazardous as defined in §27-1608.
- (2) Each use, including the storage of merchandise, articles or equipment, but excluding a parking lot, off-street loading facility, public utility or motor vehicle service, shall be conducted within a completely enclosed building. Special exception uses contained in §27-902.B.1, 2, 3, 4, 5, 8, 9, and 10, and uses subject to conditional use approval contained in §27-902.C.4, when permitted, are also exempt from being conducted within a completely enclosed building, subject to compliance with §27-1304 below.
- (3) If there is more than one building or use on a single lot:
  - (a) The proposed development shall be designed as, or as part of, a single architectural and landscaping scheme;
  - (b) The group of buildings as a whole shall comply with the area and yard regulations of the district; and
  - (c) The distance at the closest point between any two (2) buildings or groups of buildings shall be at least as great as the average height of the two (2) adjoining buildings and not less than twenty (20) feet.
- (4) Along each side or rear property line which abuts an RU, RA or RMH District boundary line, a buffer yard not less than twenty-five (25) feet in width shall be provided, and screening established in conformance with the Landscape and Screening provisions of Section 27-1633. Bed and breakfast inns need not comply with these buffer yard or screening requirements.
- (5) Each use shall comply with the provisions of §§27-1609, 27-1610 and 27-1612 relating to parking, loading, access and highway frontage development and with any other applicable general requirements of this Chapter.

**§27-1304. Village Design Standards.**

- A. Every principal building, group of principal buildings on a lot or use permitted in

this District shall comply with the Village Design Standards of §27-904, unless otherwise provided for in this Chapter.

*(Ord. 2013-362, 10/14/2013, §13)*

**PART 14****LIB – LIGHT INDUSTRIAL AND BUSINESS DISTRICT****§27-1401. LIB - Light Industrial and Business District.**

- A. The LIB – Light Industrial and Business District is designed to permit light industrial and business development in appropriate areas of the Township in accordance with the following objectives:
- (1) Provide for orderly and well planned development of employment-oriented manufacturing, research, development, laboratory and office uses.
  - (2) Provide a variety of non-polluting industrial uses in both planned centers and on individual lots.
  - (3) Permit service-oriented business uses which meet local and regional needs and market demands.
- B. In LIB Districts, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-1402. Permitted Uses.****A. Uses Permitted By Right.**

All uses and storage associated with permitted uses must be contained within a building (except crop farming, forestry, and communications antennae). Only one principal use is permitted on a lot. All uses must conform to the performance standards in §27-1608. No retail sales are permitted. The following uses are permitted in this District:

- (1) Manufacturing and wholesale business.
- (2) Scientific or industrial research or engineering facilities.
- (3) Printing, publishing, lithography and similar processes.
- (4) Offices, corporate headquarters and administrative buildings.
- (5) Training or product development facilities.
- (6) Crop farming, excluding mushroom growing, including related buildings, in compliance with this Chapter.
- (7) Forestry, where conducted in compliance with the provisions of §27-1701.H.

and §27-1631 of this Chapter.

- (8) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Closed-loop Geothermal Energy System.
- (9) Accessory building or use on the same lot with and customarily incidental to any of the foregoing permitted uses, and signs when erected and maintained in accordance with the provisions of Part 19 of this Chapter.

**B. Uses Permitted as Conditional Use.**

- (1) Grower/Processor Facility.
- (2) Medical Marijuana Delivery Vehicle Office.

*(Ord. 371, 05/08/2017, §6)*

**§27-1403. Area and Height Regulations.**

Every principal building, group of principal buildings on a lot or use shall comply with the following:

**A. Lot Area and Height.**

- (1) Minimum lot area three (3) acres
- (2) Minimum lot width two hundred-fifty (250) feet
- (3) Lot coverage sixty-five (65) percent
- (4) Building coverage thirty-five (35) percent of net lot area  
may be covered by buildings
- (5) Front yard eighty (80) feet
- (6) Rear yard fifty (50) feet



**PART 15****I – INDUSTRIAL DISTRICT****§27-1501. I - Industrial District.**

A. The I - Industrial District is designed:

- (1) To establish zoning regulations and controls for use of land and structures for industrial purposes, areas of lots, bulk of buildings, provisions for off-street parking and other similar accessory uses in order to encourage unified development of industrial uses and to encourage facilities that are a harmonious and appropriate use of the overall land resources of the Township.
- (2) To provide areas to be used for open mining and for other purposes which create safety problems. Open mining may create additional future problems through the removal of the soil and its other underlying rock structures and subsurface water. For these reasons, special restrictions are placed upon such uses so that they may be conducted in keeping with the public health, safety and welfare.
- (3) To protect areas surrounding the Industrial District, against objectionable influences such as offensive noise, vibration, smoke, odors, glare and fire and safety hazards.
- (4) To control the spacing and height of industrial facilities built in the district to assure that they do not unduly infringe on the right of access to incident solar energy.
- (5) To protect industrial development against uses which are incompatible with it.

B. In the I District, the following shall apply, subject also to all other applicable requirements of this Chapter.

**§27-1502. Use Regulations.**

A. Uses Permitted By Right.

A principal building or group of principal buildings maybe erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Agriculture Use, including for residential proposes not more than two single-family detached dwellings; or one/two single-family detached dwelling and one single-family detached dwelling; or one single-family semi-detached

dwelling and one single-family detached dwelling. Any farm building used for the keeping or raising of livestock or poultry or for mushroom culture shall be located not less than fifty (50) feet from any street or other property line.

- (2) Woodland or game preserve, wildlife sanctuary other conservation purpose.
- (3) Quarry.
- (4) Any activity involving a cleaning, distribution, processing, packaging, fabrication, production, repair, storage or testing of materials goods and/or products; provided that all such activities shall be carried on within a building.
- (5) Contractors equipment storage yard or building or rental of equipment commonly used by contractors, provided such equipment is adequately screened from view.
- (6) Township uses and buildings and related activities such as fire and police stations.
- (7) Research and experimental laboratories.
- (8) Wholesale and warehouse activities provided that they are carried on within a building.
- (9) Printing and publishing activities.
- (10) No-impact home-based business.
- (11) Forestry, where conducted in compliance with the provisions of §27-1701.H. and §27-1631, of this Chapter.
- (12) Renewable energy systems. The following uses are allowed by right, subject to the provisions of §27-1630 of this Chapter:
  - (a) Building-mounted Solar Energy Systems that are proposed for a building or structure not shown on the Oley Township Historic Resource Inventory.
  - (b) Ground-mounted Solar Energy Systems that are a maximum of eight hundred (800) square feet in surface area, and proposed in the rear yard of a lot that does not contain buildings or structures shown on the Oley Township Historic Resource Inventory.
  - (c) Outdoor Wood-fired Boiler.
  - (d) Closed-loop Geothermal Energy System.



B. Uses Permitted By Special Exception.

Any of the following uses when authorized by the Zoning Hearing Board as a special exception, subject to the general standards prescribed in §27-2007.B.

- (1) Single family detached dwelling as an accessory use.
- (2) Ground-mounted Solar Energy Systems that are eight hundred (800) square feet or greater in surface area:
  - (a) Subject to the provision of sufficient documentation that the System size is needed to meet the energy needs of the tract's principal use; and
  - (b) Only when said System is proposed in the rear yard of a building or structure not shown on the Oley Township Historic Resource Inventory.
- (3) Open-loop Geothermal Energy Systems.
- (4) Commercial Solar Energy System, pursuant to Section 27-1630.A.(7).

C. Uses Permitted Subject to Conditional Use Approval.

The following uses may be permitted when approved as a conditional use by the Board of Supervisors.

- (1) Utility-scale solar production facility.
- (2) Concrete recycling or asphalt paving production plant.
- (3) Heliport provided that it is properly licensed by the Pennsylvania Department of Transportation, that it meets all applicable State and Federal regulations and that the area used for landing and take-off is located at least three hundred (300) feet from adjacent property lines.
- (4) Junkyard provided that the premises shall be maintained so as not to constitute a nuisance, and provided that an evergreen planting screen is established of sufficient height and density to prevent sight of material stored in the junkyard.
- (5) Adult-Oriented Establishments.
  - (a) **Intent.** The Township of Oley has determined that Adult-Oriented Establishments frequently have secondary affects which can have a negative impact upon the health, safety and welfare of the Township residents. These situations include difficulties with law enforcement,

municipal maintenance, trash, negative effects on business and residential property values, and increased crime and prostitution. The Township of Oley considers that limiting the location of Adult-Oriented Establishments is a legitimate and reasonable means of addressing the secondary effects of such uses without affecting or suppressing any activities protected by the First Amendment of the United States Constitution.

(b) **Development Regulations.** All Adult-Oriented Establishments shall meet the following conditions:

- i. Adult-Oriented Establishments which shall include adult arcades, adult bookstores, adult novelty stores or adult video stores, adult cabarets, adult motion picture theaters, adult theaters, escort agencies, nude model studios and sexual encounter centers, shall not be located in any zoning district, except for the Industrial District, when authorized by the Zoning Hearing Board as a special exception, subject to the conditions of this Section and the conditions contained in §27-2007.B.
- ii. No Adult-Oriented Establishment shall be located within 1,000 feet of:
  - 1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - 2) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities, school includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school;
  - 3) A licensed premises, licensed pursuant to the Alcoholic Beverage Control Regulations of the Commonwealth of Pennsylvania; and
  - 4) Any other Adult-Oriented Establishment.
- iii. No Adult-Oriented Establishment shall be within eight hundred (800) feet of a boundary of a residential district, as defined in this Part.

- iv. No Adult-Oriented Establishment shall be within five hundred (500) feet of:
- 1) A public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Township which is under the control, operation or management of the Township Park and Recreational authorities, or other similar land within the Township which is under the control, operation or management of private parties and open and available for the use by the general public; and
  - 2) An entertainment business which is oriented primarily towards children and family entertainment.

For the purpose of this subsection (b), measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an Adult-Oriented Establishment is conducted, to the nearest property line of the premises of the use listed in subsection (b). The presence of a municipal, county or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this subsection (b).

- (c) Any lot which is to be used for any Adult-Oriented Establishment shall contain screening and buffering along property lines adjoining other zoning districts in accordance with the provisions of §27-1506.A. of this Part.
- (d) Sufficient additional data shall be submitted to enable the Zoning Hearing Board to determine that the requirements of this and other ordinances of the Township relevant to the proposed use have been fulfilled, and that the owners and operators of proposed adult entertainment facilities demonstrate a desire and ability to comply with the ordinances of the Township, and to prevent their establishments from being used for any illegal activities.
- (e) No exterior display of products, activities or shows shall be permitted, except for a sign. In lieu of the sign requirements contained in Part 19 of this Chapter, a sign for an Adult-Oriented Establishment shall meet the following requirements:

- i. The sign shall only identify the name of the establishment and/or its hours of operation.
- ii. The area of the sign shall not exceed forty (40) square feet.

(6) Grower/Processor Facility.

(7) Medical Marijuana Delivery Vehicle Office.

D. Accessory Uses.

(1) Only the following accessory uses shall be permitted:

- (a) Customary accessory uses related to industry activity.
- (b) Residential quarters for watchman and/or caretakers when located within the building housing the principal use.
- (c) Restaurant or cafeteria facilities for employees.
- (d) Medical facilities for employees.
- (e) Fire apparatus and equipment areas.

(2) Signs when erected and maintained in accordance with the provisions of Part 19 of this Chapter.

*(Ord. 371, 05/08/2017, §7, as amended by Ord. 376, 10/28/2017, §6)*

**§27-1503. Area, Yard, Height and Special Regulations.**

A. The area, yard and height regulations are divided into the groups by use.

B. Every principal building, group of principal buildings on a lot or use shall comply with the area, yard, height and special regulations are as follows:

(1) **Group One.** Any principal building or group of principal buildings which may be erected, altered or used, and any lot which may be used or occupied for any of the purposes listed in §27-1502.A. (1), (2), (3), (4), (11), and (12) shall be governed by the regulations established in this Subsection.

(a) Maximum Regulations.

Lot coverage	40%
Building height	40 feet
Structures not affording shelter for humans or animals	65 feet

(b) Minimum Regulations.

Lot size	10 acres
Lot width	1,000 feet
Distance between highway access points	500 feet
Improvement setback line	150 feet

(c) Yard Requirements.

Side yard (each side)	150 feet
Rear yard	150 feet
Open area	20%

(2) **Group Two.** Any principal building or group of principal buildings which may be erected, altered or used, and any lot which may be used or occupied for any of the purposes listed in §27-1502.A. (5), (6), (7), (8), (9), and (10) shall be governed by the regulations established in this Subsection.

(a) Maximum Regulations.

Lot coverage	60%
Building coverage	40%
Building height	35 feet

(b) Minimum Regulations.

Lot size	2 acres
Lot width	150 feet
Distance between buildings	20 feet
Front yard	50 feet
(100 feet opposite an RU or RA District)	
Improvement setback line	25 feet
Yard requirements	
Side yard for each side	10 feet
(100 feet when adjacent to an RU or RA District)	
Rear yard	25 feet
(100 feet when adjacent to an RU or RA District)	

C. **Effective Screening.** A buffer yard shall be established within the front yard opposite an RU or RA District and within a rear yard or side yard adjacent to an RU or RA District, as defined in this Chapter, for the minimum required distance of one hundred (100) feet. The buffer yard shall be established in conformance with the Landscape and Screening provisions of Section 27-1633.

**§27-1504. Parking Area Setbacks.**

Parking areas shall be set back from property lines according to the following:

- A. **Front.** No closer than the ultimate right-of-way as specified in the Subdivision and Land Development Ordinance [Chapter 22].
- B. **Side and Rear.** Fifty (50) feet.

**§27-1505. Performance Standards.**

In addition to the performance standards of §27-1608 of this Chapter, all uses shall be subject to the following regulations:

- A. No emission of fumes, vapor or dust shall be permitted which can cause damage to health, animals, or vegetation or other forms of property or which can cause any soiling at any point beyond the property line.
- B. No potentially dangerous effluent from operations shall be discharged.
- C. Blasting shall be controlled to conform to latest state regulations. Blasting shall not be permitted between 7 p.m. and 7 a.m., and shall not be permitted on Sundays and legal holidays.
- D. No odors shall be detectable beyond the Zoning District boundary from any manufacturing operation or product.
- E. No smoke emission shall be permitted except in conformance to the latest applicable laws of Pennsylvania regulating air pollution.
- F. No physical vibration from operations shall be produced which is perceptible beyond the boundaries of the Zoning District.
- G. No electromagnetic radiation nor injurious radioactive emission shall be produced.
- H. No waste material shall be stored on the lot other than product or by product of the operations.
- I. All applicable Federal, State and local requirements shall apply. In the case of conflicting requirements, the most stringent requirement shall apply.
- J. The Township shall be provided with a copy of all permits, permit applicants, licenses and related material required by State or Federal agencies.

**§27-1506. Special Requirements.**

Every building or group of buildings shall comply with the following list of special requirements:

- A. The required yards and set back areas shall be suitably landscaped by tree plantings to reduce the visibility of the operations being conducted.
- B. No storage of products or by products shall be permitted to reach a height in excess of fifty (50) feet, or be located within one-hundred fifty (150) feet of any lot line.
- C. For quarries, concrete recycling, or asphalt paving production plants, the following standards and requirements shall apply, except where superseded by PADEP permitting actions:
  - (1) No grade which exceeds thirty-five (35) feet of vertical drop per one hundred (100) feet of horizontal distance shall be permitted in any area unless access to it is restricted by an industrial chain link fence six (6) feet in height when such a grade or drop is:
    - (a) Along or within five hundred (500) feet of any public road.
    - (b) Along or within five hundred (500) feet of any public or semi/public activity which generates large groups or intense activity.
    - (c) Along or within five hundred (500) feet of any existing residence.
    - (d) Along or within five hundred (500) feet of any district which permits residence uses, unless the pit area is more than five hundred (500) feet from district line.
  - (2) Stored or abandoned by-products not beneficially used within one (1) year of excavation must be used to provide a backfill in areas no longer actively mined or quarried. "Beneficially used" shall mean used to produce the intended commercial quarry products. Alternatively, until such time as the PADEP permitted reclamation plan is implemented, abandoned by-products may be temporarily planted with vegetation to prevent erosion, dust and unsightliness, and which will result in an appearance that blends in with the non-invasive, native vegetation of this area.
  - (3) All roadways shall be so maintained that dust is adequately restricted from spreading because of trucking operations.
  - (4) No crushing operations shall be permitted within fifty (50) feet of any property line.
  - (5) No heat or glare shall be perceptible beyond the lot line.
  - (6) All mining or excavating areas must be suitably posted with restrictive warning signs.
  - (7) No open mine shall be closer than fifty (50) feet to any property line or road right of way.

- (8) All explosives shall be stored in a permanent building adequately locked, not less than two hundred (200) feet from any residence or any residential district line.
- (9) Plans for site reclamation and erosion and sediment control, meeting any and all Federal and State requirements, shall be submitted to the Township prior to the issuance of a zoning permit.

**§27-1507. Off-Street Parking Regulations.**

As required by §27-1609 of this Chapter.

**§27-1508. Off-Street Loading Regulations.**

As required by §27-1610 of this Chapter.

**§27-1509. Site Plan Review.**

In order to assure the satisfactory development of industrial sites, it shall be required that prior to use or occupancy of such a lot, building, site, parcel or property, a site plan in accordance with the Township Subdivision and Land Development Ordinance [Chapter 22] shall be submitted to the Planning Commission for review (prior to the issuance of a building permit to occupy or use the lot for the uses prescribed herein). Uses subject to conditional use approval shall first comply with the site plan submittal requirements of Part 21 of this Chapter. Such a plan shall include the following:

- A. A survey drawn to scale prepared by an engineer or surveyor registered in the Commonwealth of Pennsylvania, showing the exact size, shape and dimensions of the lot built upon.
- B. The exact size and location on the lot of all existing buildings and structure.
- C. The exact size and locations on the lot of the structure or building proposed to be erected, removed, repaired or altered.
- D. All adjacent streets or allies with traffic flow patterns.
- E. The proposed parking facilities include the size, arrangement and number of parking stalls and placement of lighting standards, if needed.
- F. The proposed pattern for movement of all vehicles including ingress and egress drives, off-street parking and loading areas and fire lanes. Circulation patterns shall insure prevention of obstruction to vehicles entering and leaving the site.



- G. Architectural and engineering sketches showing plan levels, elevations and any other necessary information related to water run off control, slope, contours, type of building construction, etc.
- H. Areas to be utilized for the exterior storage and materials and type of screen.

*(Ord. 2013-362, 10/14/2013, §15; and Ord. 376, 10/28/2017, §6)*

## PART 16

## GENERAL REGULATIONS

**§27-1601. Nonconforming Uses, Structures and Buildings.****A. Statement of Intent.**

- (1) Within the Zoning Districts established by this Chapter or subsequent amendment thereto, there exists or will exist certain nonconformities which, if lawful before this Chapter was passed or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this Chapter or subsequent amendments thereto.
- (2) To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and on which actual building construction has been diligently carried on.

**B. Nonconforming Uses of Land.** Lawful uses of land, which at the effective date of this Chapter, or as a result of subsequent amendments thereto, become nonconforming, may be continued by the present or any subsequent owner so long as it remains otherwise lawful, subject to the following provisions:

- (1) **Extension.** No such nonconforming use shall be enlarged or increased nor extended to occupy land other than was owned or leased by the user for the nonconforming use at the date such use became nonconforming.
- (2) **Discontinuance.** Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be re-established. Any future use shall be in conformity with the provisions of this Chapter.
- (3) **Changes or Moving of Use.** A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by special exception, be changed to another nonconforming use provided that the Zoning Hearing Board shall find that the proposed use is equally appropriate or more appropriate in the Zoning District than the existing nonconforming use.
- (4) **Additional Structures or Buildings.** No additional structures or buildings not conforming to the dimensional requirements of this Chapter shall be erected in connection with such nonconforming use of land.

C. **Nonconforming Structures or Buildings.** Structures or buildings which at the effect date of this Chapter or subsequent amendments thereto become nonconforming by reason or restrictions on area, lot coverage, height, yards, location on the lot or other requirements concerning the building or structure, may be continued to be used so long as such structure or building remains otherwise lawful, subject to the following provisions:

(1) **Enlargement.**

- (a) Except as hereinafter provided in subsection (b) below, a lawful existing structure or building which does not conform with the yard or height regulations of the District in which it is located may not be extended if the proposed addition will not meet the yard and height regulations of the District. The building or structure may be extended if the proposed addition itself meets the yard and height requirements of the Zoning District and meets all other applicable regulations set forth in this Chapter.
- (b) A lawfully existing single-family detached dwelling which does not conform with the front yard regulations of the District in which it is located may be extended, provided that the extension will not extend farther into the front yard than the existing nonconforming building, and will not be closer to the side property line than the required side yard distance, or the front yard distance if the extension is toward the side street of a corner lot. The width of the extension, as measured parallel to the street line, may not exceed that of the existing nonconforming building.
- (c) Except as provided in (b) above, no nonconforming structure or building may be enlarged or altered in a way which increases its nonconformity, but any structure or building or portion thereof may be altered to decrease its nonconformity.

(2) **Damage or Destruction.** A nonconforming structure or building which is destroyed or partially destroyed by fire, explosion or by any means to the extent not covered by §27-1601.E. below, to an extent rendering it physically unsafe, as declared by the Building Inspector, shall not be repaired or restored to a nonconforming status, but shall be reconstructed and used only in conformity with the provisions of this Chapter; provided however, if reconstruction in such a case begins within twelve (12) months after destruction or partial destruction occurs, the same nonconforming structure or a structure less nonconforming may be reconstructed.

(3) **Demolition.** A nonconforming structure or building which is demolished or removed by the owner shall not be rebuilt or reconstructed to a nonconforming status, but shall be reconstructed and used only in conformity with the provisions of this Chapter; provided, however, if reconstruction in such a case begins within twelve (12) months after the demolition or removal

of building or structure, the same nonconforming structure or a less nonconforming structure housing the same use as the original structure prior to demolition or removal, may be reconstructed.

- (4) **Moving of Structure or Building.** No nonconforming structure or building shall be, for any reason, moved for any distance unless it shall thereafter conform to the zoning regulations for the District in which it is located after it is moved.
- (5) **Abandonment.** Whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued or left vacant for a period of eighteen (18) consecutive months, 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, unless the owner shall, by a preponderance of the evidence, overcome the presumption of abandonment.

D. **Nonconforming Uses of Structures or Buildings.** Lawful uses of structures or buildings which, at the effective date of this Chapter or as a result of subsequent amendments thereto become nonconforming, may be continued by the present or any subsequent owner so long as such use remains otherwise lawful, subject to the following provisions:

- (1) **Extension.** A nonconforming use may be extended throughout any part of an existing structure or building, or a new extension may be constructed, provided that any structural alterations, extensions or additions shall comply with all provisions of this Chapter with respect to height, area, width, yard and coverage requirements for the Zoning District in which the structure or building is located. However, such extension of a nonconforming use shall not exceed fifty (50) percent of the gross floor area occupied by said nonconforming use at the time such nonconforming use became nonconforming.
- (2) **Change of Use.** A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by special exception, be changed to another nonconforming use provided that the Zoning Hearing Board shall find that the proposed use is equally appropriate or more appropriate in the Zoning District than the existing nonconforming use.
- (3) **Discontinuance.** Whenever a nonconforming use of a structure or building or portion thereof has been discontinued or abandoned for twelve (12) consecutive months, such structure or building or portion thereof shall not thereafter be used for a nonconforming use.
- (4) **Destruction.** Removal or destruction of the structure or building in which a nonconforming use is located shall eliminate the permitted nonconforming use of the structure or building. Destruction for the purpose of this

subsection is defined as damage to an extent rendering the structure physically unsafe as declared by the Building Inspector. However, if construction begins within twelve (12) months after destruction or partial destruction occurs, the same nonconforming use may be carried on.

- E. **Unsafe or Unlawful Structures or Buildings.** If a nonconforming structure or building or portions thereof containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, such structure or building shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the Zoning District in which it is located.
- F. **Uses Under Special Exception Provisions Are Not Non-Conforming Uses.** Any use which is permitted as a special exception in a Zoning District under the terms of this Chapter (other than a change by special exception from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such Zoning District, but shall without further action be considered a permitted use.

**§27-1602. Nonconforming Lots of Record.**

- A. In any District, structures and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions of this Chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District, provided that yard dimensions and requirements shall conform to the regulations for the District in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Hearing Board.
- B. If two or more lots, combination of lots and portion of lots which are adjoining and in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and/or area requirements established by this Chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Chapter. This Section shall not apply to any lots within approved subdivision or land development plan, whether preliminary or final, within five (5) years from such approval.

**§27-1603. Reduction of Lot.**

No lot shall be so reduced so that the area of the lot or the dimension of the open spaces shall be smaller than herein prescribed, except as may be required in connection with the widening of a public right-of-way.

**§27-1604. Utility Exemption.**

This Chapter shall not apply to any existing or proposed building or extension thereof used or to be used by a public utility corporation if, upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

**§27-1605. Access Driveways.**

- A. All entrance or exit driveways for a public garage, public parking area, motor vehicle service station, or automobile car wash shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit access driveway shall have a minimum total unobstructed width of twenty (20) feet.
- B. Erection of all access driveways shall require a permit from the Township if on a Township road and a Highway Occupancy Permit from the State if on a State Road. Driveway requirements and permit fees are to be set by Resolution of the Board of Supervisors.

**§27-1606. Yard Exception for Accessory Buildings and Structures.**

- A. **Accessory Buildings and Structures With an Area Greater Than 150 Sq. Ft.** An accessory building or structure, other than a farm building or farm structure, which is not an integral structural part of a principal building and is larger than one hundred fifty (150) square feet may be located in the required side and/or rear yard not less than ten (10) feet from any property line.
- B. **Accessory Buildings and Structures With an Area Not Greater Than 150 Sq. Ft.** An accessory building or structure, other than a farm building or farm structure or private garage, which is not an integral structural part of a principal building and is not larger than one hundred fifty (150) square feet may be located in the required side and/or rear yard not less than three (3) feet from any property line.
- C. **Accessory Buildings and Structures.** For the purpose of this Section, accessory buildings and structures shall include, but not be limited to:
  - (1) Detached garages.
  - (2) Greenhouses.
  - (3) Storage sheds.

- (4) Private swimming pools, including in-ground, above-ground and on-ground swimming pools, hot tubs, and spas and their associated decks, patios, walkways and equipment shelters.

**D. Fuel Pump Islands and Canopies.**

- (1) Where permitted as an accessory use, a maximum of six gasoline dispensing nozzles and one other dual purpose pump may be located on the premises; provided, that no portion of a fuel pump island is closer than thirty (30) feet from the legal right-of-way or twenty (20) feet from the ultimate right-of-way, whichever is further, and provided that the pump locations provide efficient and safe traffic circulation, as determined by the Township Engineer, and all other requirements of the Township Ordinances are met. In the case of locations that front on SR0662 or SR0073, fuel pump islands shall be no closer than twenty (20) feet from the legal right-of-way of those highways or thirty-five (35) feet from the center of the roadway, whichever is further.
- (2) Any canopy roof covering a fuel pump island must be a minimum of ten (10) feet from the legal right-of-way of a street or the ultimate right-of-way, whichever is closer to the street, except that in the case of locations on SR0662 or SR0073, the canopy shall be no closer to the street than the legal right-of-way of those highways.
- (3) See additional fuel pump island and canopy regulations under §27-1628.

**§27-1607. Wireless Communications Facilities and Small Wireless Facility(ies).**

**A. General Requirements For All Communications Antenna.** Except as otherwise provided by Section 27-1607.D, related to Small Wireless Facilities, the following regulations shall apply to all Communications Antenna that do not Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached:

- (1) **Prohibited on Certain Structures.** Commercial Communications Antenna shall not be located on single-family dwellings, two-family dwellings, multi-family dwellings any accessory residential structure or any structure that has been designated by the Township on the Historic Building General Index Inventory to be of historical significance.
- (2) **Permit Required.** Applicants proposing the modification of an existing Communications Tower, in order to co-locate an Antenna, shall obtain a Permit from the Township Zoning Office. In order to be considered for such permit, the Applicant must submit a permit application to the Township Zoning Office.

- (3) **Standard of Care.** Any Communications Antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code and National Electrical Code. Antenna shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township. If, upon inspection, Oley Township concludes that a Communications Antenna fails to comply with such Codes and standards and constitutes a danger to persons or property then, upon notice being provided to the owner of the Communications Antenna, the owner shall have 30 days to bring such Communications Antenna into compliance with such standards. Failure to bring such Communications Antenna into compliance within said 30 days shall constitute grounds for the removal of the Communications Antenna at the owner's expense.
- (4) **Related Equipment.** Ground-mounted Related Equipment greater than 3 cubic feet shall not be located within 25 feet of a lot in the (RA) Residential, (RMH) Residential Mobile Home, (V) Village, (HV) Historic Village and (RV) Rural Village Districts.
- (5) **Wind.** All Communications Antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (6) **Public Safety Communications.** No Communications Antenna shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (7) **Aviation Safety.** Communications Antenna shall comply with all Federal and State laws and regulations concerning aviation safety.
- (8) **Radio Frequency Emissions.** No Communications Antenna may, by itself or in conjunction with other Antenna, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (9) **Removal.** In the event that use of a Communications Antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Antenna or portions of Antenna shall be removed as follows:



- (a) All abandoned or unused Antenna and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (b) If the Antenna or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the Antenna and/or associated facilities and equipment may be removed by the Township, and the cost of removal assessed against the owner of the Antenna.
- (9.1) **Replacement.** When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated Small Wireless Facility(ies), Communications Antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.
- (10) **Timing of Approval.** Within 30 calendar days of receipt by the Township of an application for a Communications Antenna which does not Substantially Change the physical dimensions of the Wireless Support Structure to which it is to be attached, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision of whether to approve the application, and shall advise the Applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time required by the Applicant to provide the information shall not be counted toward the Township's 60 day review period.
- (11) **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Communications Antenna. Such fees shall be adopted by Resolution of the Board of Supervisors. For applications that fall under the WBCA, the fee assessed shall not exceed the maximum fees established under the WBCA.
- (12) **Insurance.** Each Person that owns or operates a Communications Antenna shall provide the Township with a Certificate of Insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$1,000,000.00 per occurrence and property damage coverage in the minimum amount of \$1,000,000.00 per occurrence covering the Communications Antenna.
- (13) **Indemnification.** Each person that owns or operates a Communications Antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including

death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communications Antenna. Each person that owns or operates a Communications Antenna shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Communications Antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- (14) Repealed by Ordinance No. 388, 12/12/2022, §6.
- (15) **Professional Services Agreement.** A Consultant Professional Services Agreement, on a form provided by the Township, shall be signed by the Applicant and submitted with any Wireless Communications Facility, to cover all costs and expenses incurred by the Township for Application and Plan review and processing by its professional consultants. No Application shall be deemed submitted until the signed Consultant Professional Services Agreement has been provided to the Township. No permit shall be issued until the Applicant has fully reimbursed the Township for all costs and expenses incurred by the Township for Application and Plan review and processing by its professional consultants.

B. The following regulations shall apply to all Communications Antenna that do Substantially Change the Wireless Support Structure to which they are attached:

- (1) **Prohibited on Certain Structures.** Communications Antenna shall not be located on single-family dwellings, two-family dwellings, any residential accessory structure or any structure that has been designated by the Township on the Historic Building General Index Inventory to be of historical significance.
- (2) **Permits Required.** Any Applicant proposing the construction of a new Communications Antenna, or the modification of an existing Communications Tower, shall first obtain a Permit from the Township Zoning Office. New construction and modifications shall be prohibited without a Zoning Permit and Building Permit, as required. After receipt of the Permit application, the Township Zoning Officer shall determine whether zoning relief is necessary under the Township Code.
- (3) **Standard of Care.** Any Communications Antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related Codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code

and National Electrical Code. All Antenna shall, at all times, be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township. If, upon inspection, Oley Township concludes that a Communications Antenna fails to comply with such Codes and standards and constitutes a danger to persons or property then, upon notice being provided to the owner of the Communications Antenna, the owner shall have 30 days to bring such Communications Antenna into compliance with such standards. Failure to bring such Communications Antenna into compliance within said 30 days shall constitute grounds for the removal of the Communications Antenna at the owner's expense.

- (4) **Wind.** Any Communications Antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E Code, as amended).
- (5) **Public Safety Communications.** No Communications Antenna shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (6) **Historic Buildings.** No Communications Antenna may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed by the Township on the Historic Building General Index Inventory to be of historical significance.
- (7) **Aviation Safety.** Communications Antenna shall comply with all Federal and State laws and regulations concerning aviation safety.
- (8) **Maintenance.** The following maintenance requirements shall apply:
  - (a) The Communications Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (9) **Radio Frequency Emissions.** No Communications Antenna may, by itself or in conjunction with other Antenna, generate radio frequency emissions in

excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields,” as amended.

- (9.1) **Replacement.** When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated Communications Antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.
- (10) **Removal.** In the event that use of a Communications Antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Antenna or portions of Antenna shall be removed as follows:
- (a) All abandoned or unused Antenna and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (b) If the Antenna or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the Antenna and/or associated facilities and equipment may be removed by the Township, and the cost of removal assessed against the owner of the Antenna.
- (11) **Timing of Approval.** Within 30 calendar days of the date that an application for a Communications Antenna is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a completed application, the Township shall make its final decision on whether to approve the application and shall advise the Applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the information shall not be counted toward the Township’s 90 day review period.
- (12) **Retention of Experts.** The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The Applicant and/or owner of the Antenna shall reimburse the Township for all costs of the Township’s consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (13) **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township’s actual costs in reviewing and processing the application for approval of a Communications Antenna, as

well as related inspection, monitoring and related costs.

- (14) **Small Wireless Facilities Spacing.** Minimum spacing between Small Wireless Facilities shall be 300 feet between Wireless Communications Facility installations. Small Wireless Facilities shall not be located within 100 feet of an adjacent existing residence.
- (15) **Professional Services Agreement.** A Consultant Professional Services Agreement, on a form provided by the Township, shall be signed by the Applicant and submitted with any Wireless Communications Facility, to cover all costs and expenses incurred by the Township for Application and Plan review and processing by its professional consultants. No Application shall be deemed submitted until the signed Consultant Professional Services Agreement has been provided to the Township. No permit shall be issued until the Applicant has fully reimbursed the Township for all costs and expenses incurred by the Township for Application and Plan review and processing by its professional consultants.

C. **Communications Antenna Outside The Public Rights-of-Way.** The following additional regulations shall apply to Communications Antenna located outside the public Rights-of-Way that do Substantially Change the Wireless Support Structure to which they are attached:

- (1) Communications Antenna are permitted by right in the (RU) Rural, (LB) Local Business, (HB) Highway Business, (LIB) Light Industrial and Business and (I) Industrial Zoning Districts or any other zoning districts by special exception. Communications Antenna in such Districts may only be mounted to a building, an existing utility pole, an existing Communications Tower, or public utility transmission structure for construction of a Communications Tower in accordance with Section 27-1607.E.
  - (a) Whenever a Communications Tower, Wireless Support Structure, Communications Antenna and/or accessory facilities and equipment is proposed to be located outside of the public right-of-way, a copy of an Easement Agreement from the property owner on whose property the facilities are to be located shall be provided as part of the application process.
- (2) **Development Regulations.** Communications Antenna shall be co-located on existing structures, such as existing buildings or Communications Towers, if possible, subject to the following conditions:
  - (a) To the extent permissible by law, such Antenna does not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying Zoning District.
  - (b) If the Antenna Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum

requirements for the applicable Zoning District.

- (c) A security fence satisfactory to the Township of not less than 10 feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use. A lock box shall be provided for emergency access.
- (3) **Permit Required.** If co-location of the Communications Antenna on an existing Support Structure is not technologically feasible, the Applicant shall obtain a Permit from the Township Zoning Office.
  - (4) **Land Development Plan.** Township approval of a Land Development Plan shall be required for all Towers in excess of 50 feet in height. All stormwater requirements are applicable.
  - (5) **Design Regulations.**
    - (a) Communications Antenna shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the Antenna Applicant shall be subject to review by the HARB and approval by the Board of Supervisors.
    - (b) The total height of any support structure and mounted Antenna shall not exceed the maximum height permitted in the underlying Zoning District. To the extent permissible by law, the height of an Antenna shall not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying Zoning District.
    - (c) In accordance with industry standards, all Communications Antenna Applicants must submit documentation to the Township justifying the total height of the Antenna structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
    - (d) **Non-Commercial Usage Exemption.** Township citizens utilizing satellite dishes, Amateur radios and Antenna for the purpose of maintaining television, telephone, radio communications and/or internet connections at their respective residences shall be exempt from these Design Regulations.
  - (6) **Removal, Replacement, Modification.**
    - (a) The removal and replacement of Communications Antenna and/or accessory equipment for the purpose of upgrading or repairing the Antenna is permitted, so long as such repair or upgrade does not increase the overall size or number of Antenna.

- (b) Any material modification to a Wireless Communications Facility shall require a prior amendment to the original permit or authorization.
  - (c) **Replacement.** When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated Communications Antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.
- (7) **Reservation of Rights.** In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Communications Antenna for numerous factors, including, but not limited to, visual impact, design and safety standards.
- (8) **Inspection.** The Township reserves the right to inspect any Antenna to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or State or Federal law. The Township and/or its agents shall have the authority to enter the property upon which an Antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- D. Requirements For Small Wireless Facilities and New Utility Poles With Small Wireless Facilities Attached Inside The Public Right-of-Way.** The following additional regulations shall apply to all Small Wireless Facilities and new Utility Poles with Small Wireless Facilities attached located in the public Right-of-Way:
- (1) **Location.**
    - (a) **Use Permitted in All Zoning Districts.** Use of the Right-of-Way for Small Wireless Facilities or new Utility Poles with Small Wireless Facilities attached shall be a use permitted by right in all Zoning Districts of the Township, except for Underground Districts as defined and discussed herein. Use of the Right-of-Way for Small Wireless Facilities or new Utility Poles with Small Wireless Facilities attached shall not be subject to conditional use or special exception approval requirements.
    - (b) **Co-Location.** Small Wireless Facilities shall be co-located, whenever possible, on existing Utility Poles within the public Right-of-Way.
    - (c) **No Exclusivity.** The Township shall not enter into an exclusive arrangement with any Person for the use of the Right-of-Way for:
      - i. Co-location; or,
      - ii. The installation, operation, modification or replacement of

## Utility Poles with Small Wireless Facilities attached.

- (d) **Annual Fees.** The Township shall assess annual fees for the use of the Right-of-Way in accordance with the following:
- i. Annual fees authorized pursuant to the Small Wireless Facilities Deployment Act [P.L. 232, No. 50, 53 P.S. § 11704.3(c)] as provided on the Township's adopted fee schedule.
  - ii. A permit-specific, annual Right-of-Way fee that reasonably approximates the Township's costs to manage a Small Wireless Facility deployed within the right-of-way pursuant to the provisions of the Small Wireless Facilities Deployment Act [P.L. 232, No. 50, 53 P.S. § 11704.3(c)(1)-(3)].
- (e) **Preferred Locations.** The Township prefers that Small Wireless Facilities be installed on existing or replacement Utility Poles over the installation of new Utility Poles with Small Wireless Facilities attached and, accordingly, to obtain approval to install a new Utility Pole with Small Wireless Facilities attached, an Applicant shall be required to demonstrate, to the Township's satisfaction, that co-location on an existing or replacement Utility Pole is not available.
- (f) **Preferred Materials.** The Township prefers that, to the extent feasible, all replacement Utility Poles and new Utility Poles, including the proposed Small Wireless Facility equipment, substantially conform to the material and design of the Utility Pole being replaced and/or the material and design of the Utility Poles adjacent, proximate or nearest to the proposed new Utility Pole with Small Wireless Facilities attached.
- (2) **Right of Access.**
- (a) Under the provisions of this Section (in accordance with Applicable Codes), with the permission of the owner of the Utility Pole or Small Wireless Facility Pole, and with the issuance of a permit from the Township pursuant to this Section, a Wireless Provider shall have the right to perform the following within the right-of-way:
    - i. Co-locate; or,
    - ii. Replace an existing Utility Pole or install a new Utility Pole with a Small Wireless Facility attached.
  - (b) Any Wireless Provider issued a permit to deploy a Small Wireless Facility pursuant to this Section shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the Township or



other Utility Facilities co-located on the Utility Pole or Small Wireless Facility Pole.

**(3) Size Limits.**

- (a) Each new or modified Small Wireless Facility installed in the Right-of-Way shall be installed on an existing Utility Pole or new Utility Pole subject to the following:
  - i. The installation of a Small Wireless Facility on an existing Utility Pole shall not extend more than five (5) feet above the existing Utility Pole.
  - ii. If co-location on an existing Utility Pole cannot be achieved pursuant to Section 27-1607.D.(1)(b), a Small Wireless Facility may be installed on a new or replacement Utility Pole. The maximum permitted height of the Small Wireless Facility, which shall include the Utility Pole and the Small Wireless Facility, shall not exceed fifty (50) feet above existing ground level at the time of the application for a permit.
- (b) Subject to the provisions of this Section, a Wireless Provider may co-locate or install a new Utility Pole with a Small Wireless Facility attached that exceeds these height limits by making application to the Zoning Hearing Board requesting a variance from this provision. Any request for a zoning variance pursuant to this provision shall be subject to approval pursuant to Section 27-2007.A of this Chapter (relating to zoning variances).

**(4) Underground Districts.**

- (a) A Wireless Provider shall comply with Township requirements in areas designated by the Township as Underground Districts.
- (b) A Wireless Provider may apply for a permit to install a Small Wireless Facility on an existing Decorative Pole or Township Pole in an Underground District subject to compliance with the permitting requirements of this Section.
- (c) A Wireless Provider may seek a waiver for the installation of a new Utility Pole to support Small Wireless Facilities within an Underground District subject to all of the following:
  - i. The Wireless Provider submits, along with their application for a permit pursuant to this Section, an application to the Board of Supervisors seeking a waiver from the requirements of the Underground District;

- ii. The Wireless Provider provides demonstrative proof that co-location on an existing Decorative Pole or Township Pole cannot be achieved in the Underground District;
  - iii. The Wireless Provider provides written approval from the owner of the property within the Underground District upon which the new Utility Pole will be located;
  - iv. The Wireless Provider's application for a permit pursuant to this Section has been accepted as complete by the Township; and,
  - v. The Wireless Provider makes a presentation in support of its application at a public hearing to be held by the Board of Supervisors, who may grant or deny the waiver request subject to the foregoing criteria.
- (5) **Historic District or Building.** Except for facilities excluded from evaluation for effects on historic properties pursuant to 47 C.F.R. § 1.1307(a)(4) (relating to actions that may have a significant environmental effect, for which Environmental Assessments must be prepared), the Township may require reasonable and non-discriminatory design or concealment measures for a permit to deploy Small Wireless Facilities within a Historic District or upon Historic Buildings within the Township. Any required design or concealment measures will not prohibit or interfere with a Wireless Provider's technology and will not be considered a part of the Small Wireless Facility for the purposes of calculating any size or dimension limitations pursuant to this Section.
- (6) **Design Standards.** Small Wireless Facilities deployed within the Right-of-Way shall comply with the reasonable and non-discriminatory design standards contained in the Township's Small Wireless Facilities Design Manual (the "Design Manual"), which shall be prepared by the Township and amended by Resolution from time to time at the discretion of the Board of Supervisors. The Design Manual will include, but not be limited to, the following design standards:
- (a) **Compliance With Applicable Regulations.** All Small Wireless Facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related Codes including, but not limited to, the most recent editions of the American National Standards Institute ("ANSI") Code, the National Electrical Safety Code, the National Electrical Code, and the FCC Standards for Radio Frequency (RF) Emissions. Any antenna and accessory equipment shall, at all times, be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel so that the same shall not endanger any person or any property in the

Township.

- (b) **Weather and The Elements.** All Small Wireless Facilities shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute and as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIN/TIA-222-E Code, as amended).
- (c) **Visually Compatible Design.** Small Wireless Facilities approved for deployment on existing Decorative Poles, Township Poles, Utility Poles or other similar Small Wireless Facility Poles shall be treated to match the existing scale, proportion and design of the existing Small Wireless Facility Pole. Small Wireless Facilities shall be painted, or otherwise coated, to be visually compatible with the Small Wireless Facility Pole upon which they are mounted. Small Wireless Facilities shall be designed using Stealth Technology and the design is subject to review by the HARB and approval of the Board of Supervisors.
- (d) **Equipment Location.** Accessory equipment for Small Wireless Facilities located within the Right-of-Way shall be the smallest and least visibly intrusive equipment feasible and shall, whenever practical, be located underground. If the Township determines that doing so would not be technologically or economically feasible, given industry standards and norms, the same shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the right-of-way, as determined by the Township. In addition:
  - i. In no case shall ground-mounted equipment, walls or landscaping be located within thirty-six (36) inches of the exposed back of the curb or within an easement extending onto a privately-owned lot.
  - ii. Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the HARB and approval of the Board of Supervisors, giving due concern and consideration to the safety of pedestrians, vehicular traffic and the traveling public.
  - iii. Required electrical meter cabinets that cannot be located underground shall be screened to blend in with the surrounding area to the satisfaction of the HARB and approved by the Board of Supervisors.
  - iv. Any graffiti on the support structure or on any accessory

equipment shall be removed at the sole expense of the Wireless Provider within ten (10) business days of notice of the existence of the graffiti.

- v. Any plans for the proposed underground installation of accessory equipment shall be reviewed and approved in advance by the Township.

(7) **Modification Standards.** The following standards shall apply to the modification of all Small Wireless Facilities deployed in the right-of-way:

- (a) In order to upgrade, expand, replace or repair any Small Wireless Facility permitted pursuant to this Section, a Wireless Provider must first obtain written approval from the Township, which approval will not be unreasonably withheld provided that such expansion, repair, replacement or upgrade does not substantially change the Small Wireless Facility originally permitted by the Township.
- (b) Any material modification or Substantial Change to a permitted Small Wireless Facility will require an application and approval of a new permit pursuant to this Section by the Wireless Provider.

(8) **Damage and Repair.** A Wireless Provider shall repair all damage to the Right-of-Way or any other land so disturbed, directly caused by the activities of the Wireless Provider, their contractors or agents, and shall return the Right-of-Way in as good a condition as it existed prior to any work being done in the Right-of-Way by the Wireless Provider. If the Wireless Provider fails to make the repairs required by the Township within thirty (30) days after written notice, the Township may perform those repairs and charge the Wireless Provider the reasonable, documented cost of the repairs plus a penalty not to exceed Five Hundred Dollars (\$500.00). The Township may suspend the ability of a Wireless Provider to apply for a new permit, or receive a permit for a pending application, from the Township until the Wireless Provider has paid the amount assessed by the Township for the repair costs and the assessed penalty. The Township may not suspend the ability of a Wireless Provider to receive a new permit, or receive a permit for a pending application, when the Wireless Provider has deposited the full amount of the assessed repair costs and assessed penalty in escrow pending an adjudication of the merits of a dispute over the repairs and penalty in a court of competent jurisdiction.

(9) **Time, Place, and Manner.** The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Antenna in the Right-of-Way based on public safety, traffic management, physical burden on the Right-of-Way, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

- (10) **Relocation or Removal of Small Wireless Facilities.** Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, a Wireless Provider shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small Wireless Facility deployed within the Right-of-Way when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (a) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
  - (b) The operations of the Township or other governmental entity in the Right-of-Way;
  - (c) Vacation of a street or road or the release of a utility easement; or,
  - (d) An emergency as determined by the Township.

E. **General Requirements For All Communications Towers.** The following regulations shall apply to all Communications Towers:

- (1) **Standard of Care.** Any Communications Tower shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related Codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Communications Tower shall, at all times, be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township. If, upon inspection, Oley Township concludes that a Communications Tower fails to comply with such Codes and standards and constitutes a danger to persons or property then, upon notice being provided to the owner of the Communications Tower, the owner shall have 30 days to bring such Communications Tower into compliance with such standards. Failure to bring such Communications Tower into compliance within said 30 days shall constitute grounds for the removal of the Communications Tower at the owner's expense.
- (2) **Authorization Required.** The construction of a new Communications Tower may be permitted as a special exception subject to the applicable standards in this Ordinance. Modifications to an existing Communications Tower shall be prohibited without a zoning permit. Any Applicant for a

special exception shall demonstrate that the proposed facility conforms to all applicable requirements and standards set forth in Section 27-2007.B.

- (3) **Wind.** Any Communications Tower structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (4) **Design.** Any Communications Tower shall be designed to have the least practical adverse visual effect on the areas which can view it.
- (5) **Height.** Any Communications Tower shall be designed at the minimum functional height. All Communications Tower Applicants must submit documentation to the Township justifying the total height of the structure. The maximum total height of any Communications Tower, which is not located in the public ROW, shall not exceed 200 feet, as measured vertically from the ground level to the highest point on the structure, including Antenna and subsequent alterations. Equipment buildings, cabinets and ground-mounted accessory structures shall not exceed 15 feet in height.
- (6) **Related Equipment.** A telecommunication equipment building, equipment cabinet or any other structure associated with a Communications Tower, shall meet the height and setback requirements for principal buildings in the Zoning District in which the building is located, except as otherwise noted in the Oley Township Zoning Ordinance.
- (7) **Public Safety Communications.** No Communications Tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (8) **Maintenance.** The following maintenance requirements shall apply:
  - (a) Any Communications Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of Township residents.
  - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (9) **Radio Frequency Emissions.** No Communications Tower may, by itself or in conjunction with other Wireless Communications Facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC,

including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- (10) **Historic Buildings or Districts.** No Communications Tower may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is designated by the Township on the Historic Building General Index Inventory to be of historical significance.
- (11) **Signs.** All Communications Towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
- (12) **Lighting.** No Communications Tower shall be artificially lighted, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. Strobe lights are not to operate between sunset and sunrise.
- (13) **Noise.** Communications Towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under State law and applicable Township Ordinance guidelines, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (14) **Aviation Safety.** Communications Towers shall comply with all Federal and State laws and regulations concerning aviation safety.
- (15) **Retention of Experts.** The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Communications Tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The Applicant and/or owner of the Tower shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (16) **Timing of Approval.** Within 30 calendar days of the date that an application for a Communications Tower is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. All applications for Communications Towers shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such Communications Tower, and the Township shall advise the Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the information

shall not be counted toward the 150 day review period.

- (17) **Non-Conforming Uses.** Non-conforming Communications Towers which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Ordinance. Co-location of Antenna on existing non-conforming Towers is permitted.
- (18) **Removal.** In the event that use of a Communications Tower is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Towers or portions of Towers shall be removed as follows:
  - (a) All unused or abandoned Communications Towers and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (b) If the Tower and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the Tower and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Tower.
  - (c) Any unused portions of Communications Towers, including Antenna, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a Communications Tower previously removed.
- (19) **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Communications Tower, as well as related inspection, monitoring and related costs.
- (20) **FCC License.** Each person that owns or operates a Communications Tower shall submit a copy of its current FCC license, including the name, address and emergency telephone number for the operator of the facility.
- (21) **Insurance.** Each person that owns or operates a Communications Tower greater than 50 feet in height shall provide the Township with a Certificate of Insurance, naming the Township as an additional insured, evidencing general liability coverage in the minimum amount of \$5,000,000.00 per occurrence and property damage coverage in the minimum amount of \$5,000,000.00 per occurrence covering the Communications Tower. Each person that owns or operates a Communications Tower 50 feet or less in height shall provide the Township with a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000.00 per



occurrence and property damage coverage in the minimum amount of \$1,000,000.00 per occurrence covering each Communications Tower.

- (22) **Indemnification.** Each person that owns or operates a Communications Tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communications Tower. Each person that owns or operates a Communications Tower shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Communications Tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (23) **Engineer Signature.** All plans and drawings for a Communications Tower shall contain the seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania, certifying the ability of the proposed Communications Tower to meet the structural standards offered by either the Electronics Industry Association or the Telecommunications Industry Association, and certifying the proper construction of the foundation and erection of the structure.
- (24) **Financial Security.** Prior to receipt of a zoning permit for the construction or placement of a Communications Tower, the Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Communications Tower in a form to be approved by the Township Attorney. Said financial security shall remain in place until the Communications Tower is removed.

F. **Tower-Based Facilities Outside The Rights-of-Way.** The following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Rights-of-Way:

- (1) **Development Regulations:**
- (a) **Location.** No Communications Tower shall be located in an area in which all utilities are underground, except as permitted by this Ordinance. The following additional requirements shall apply:
- i. Communications Towers may be permitted in (HB) Highway Business, (LIB) Light Industrial and Business; and (I) Industrial Zoning Districts by special exception.

- ii. Communications Towers shall not be located in, or within 75 feet of, any area in which utilities are underground.
- (b) **Gap in Coverage.** An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Wireless Communications Facility being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Communications Towers.
- (c) **Sole Use on a Lot.** A Communications Tower shall be permitted as a sole use on a lot, provided that the lot shall meet the minimum lot area of the District in which it is located.
- (d) **Combined With Another Use.** A Communications Tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
  - i. The existing use on the property may be any permitted use in the applicable District, and need not be affiliated with the Wireless Communications Facility.
  - ii. **Minimum Lot Area.** The minimum lot shall comply with the requirements for the applicable Zoning District and shall be the area needed to accommodate the Communications Tower and guy wires, the equipment building, security fence and buffer planting if the proposed Communications Tower is greater than 50 feet in height. If a security fence is put in place, a lock box shall be provided for emergency access.
  - iii. **Minimum Setbacks.** The foundation and base of any Communications Tower shall be set back from property lines in accordance with the minimum setbacks applicable to the Zoning District where the property is located.
- (2) All parts of the Communications Tower shall be set back a minimum of 100 feet from the property line on the larger parcel on which the leased parcel is located, plus one foot for each foot of height of Tower and Antenna beyond 100 feet.
- (3) **Notice.** Upon submission of an application for a Communications Tower, the Applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The Applicant shall provide proof of the notification to the Township.

- (4) **Leased Parcels.** Copies of lease agreements and easements necessary to provide access to the buildings or structure for installation and placement of the equipment cabinet or equipment building shall be provided to the Township. Recording of a plat of subdivision shall not be required for the leased parcel on which the Communications Tower is constructed, provided the equipment building is proposed to be unmanned, the required easement agreement for access is submitted for approval by the Township, and the equipment building is less than 1,000 square feet.
- (5) **Co-Location and Siting.** The Applicant must demonstrate that the wireless communications equipment planned for the proposed Communications Tower cannot be accommodated on an existing or approved structure or building, or on Township property. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings and towers in excess of 50 feet, within a 1/2 of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
- (a) The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - (b) The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure or tower and the interference cannot be prevented at a reasonable cost.
  - (c) Such existing buildings, structures or towers do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (d) A commercially reasonable agreement could not be reached with the owner of such building, structure or tower.
- (6) Any application for approval of a Communications Tower shall include a comprehensive inventory of all existing towers and other suitable structures within a two mile radius from the point of the proposed tower, unless the Applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
- (7) **Design Regulations:**
- (a) The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Communications

Tower Applicant shall be subject to review by the HARB and approval by the Board of Supervisors.

- (b) Any height extensions to an existing Communications Tower shall require prior approval of the Township. The Township reserves the right to deny such requests based upon lawful considerations related to the character of the Township.
- (c) Any proposed Communications Tower shall be designed structurally, electrically, and in all respects to accommodate both the Communications Tower Applicant's Antenna and comparable Antenna for future users.
- (d) Any Communications Tower over 50 feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

**(8) Surrounding Environs:**

- (a) The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Communications Tower structure shall be preserved to the maximum extent possible.
- (b) The Applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Communications Tower, and anchors for guy wires, if used.

**(9) Fence/Screen:**

- (a) A security fence satisfactory to the Township having a minimum height of 10 feet shall completely surround any Communications Tower greater than 50 feet in height, as well as guy wires, or any building housing Communications Tower equipment. If a security fence is used, a lock box shall be provided for emergency access.
- (b) Landscaping shall be installed to screen and buffer the tower and any ground level features, such as an equipment building, from adjacent properties.
- (c) A 10 foot wide buffer yard consisting of dense evergreen hedge planted so that the leaves or needles will touch an adjacent plant at maturity around the perimeter of the security fence on the parcel. The buffer yard required in the applicable (LB) Local Business, (HB) Highway Business, (LIB) Light Industrial and Business, and (I) Industrial Zoning Districts must be planted around the perimeter of any parcel.

**(10) Accessory Equipment:**

- (a) Ground-mounted equipment associated to, or connected with, a Communications Tower shall be underground or screened from public view using Stealth Technologies, as described above, and shall be reviewed by the HARB and approved by the Board of Supervisors.
  - (b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying Zoning District. Such buildings or accessory structures shall be reviewed by the HARB and approved by the Board of Supervisors.
- (11) **Additional Antenna.** As a condition of approval for all Communications Towers, the Applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antenna on Communications Towers where technically and economically feasible. The owner of a Communications Tower shall not install any additional Antenna without obtaining the prior written approval of the Township.
- (12) **Access Road.** An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Communications Tower. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the Communications Tower owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility. The access road shall be a minimum of 20 feet in width and shall be improved with a bituminous or concrete surface approved by the Township, for its entire length at a minimum of 12 feet in width.
- (13) **Parking.** For each Communications Tower greater than 50 feet in height, there shall be two off-street parking spaces. Each parking space shall be improved with a dust-free, all-weather surface.
- (14) **Reservation of Rights.** In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Communications Tower for numerous factors, including, but are not limited to, visual impact, design and safety standards.
- (15) **Inspection.** The Township reserves the right to inspect any Communications Tower to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or State or Federal law. The Township and/or its agents shall have the authority to enter the property upon which a Communications Tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

- (16) **Engineer Inspection Report.** The owner of any Communications Tower greater than 50 feet in height shall submit to the Township proof of an annual inspection conducted by a structural engineer at the owner's expense and an updated tower maintenance program based on the results of the inspection. Any structural faults shall be corrected immediately and re-inspected and certified to the Township by a structural engineer at the Tower owner's expense.

G. **Communications Towers in The Public Rights-of-Way.** The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Rights-of-Way:

(1) **Development Regulations:**

- (a) **Location.** No Communications Tower shall be located in an area in which all utilities are underground, except as permitted by this Ordinance. The following additional requirements shall apply:
- i. Communications Towers may be permitted in (HB) Highway Business, (LIB) Light Industrial and Business; and (I) Industrial Zoning Districts by special exception.
  - ii. No Communications Tower sited in the public ROW shall be located in the front façade zone of any structure.
  - iii. Communications Towers shall not be located in, or within 75 feet of, any area in which utilities are underground.
- (2) **Gap in Coverage.** An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Communications Tower being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Communications Towers in the ROW.
- (3) **Notice.** Upon submission of an application for a Communications Tower, the Applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The Applicant shall provide proof of the notification to the Township.
- (4) **Co-Location and Siting.** The Applicant must demonstrate that the wireless communications equipment planned for the proposed Communications Tower cannot be accommodated on an existing or approved structure or building, or on Township property. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings and towers within a (1/4) of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was

denied for one of the following reasons:

- (a) The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - (b) The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure or tower and the interference cannot be prevented at a reasonable cost.
  - (c) Such existing buildings, structures or towers do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (d) A commercially reasonable agreement could not be reached with the owner of such building, structure or tower.
- (5) **Time, Place and Manner.** The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Towers in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (6) **Equipment Location.** Communications Towers and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 36 inches of the face of the curb.
  - (b) Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to be reviewed by the HARB and approved by the Board of Supervisors.
  - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to be reviewed by the HARB and approved by the Board of Supervisors.
  - (d) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.

- (e) Any plans for underground vaults related to Communications Towers shall be reviewed and approved in advance by the Township.

(7) **Design Regulations.**

- (a) The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Communications Tower Applicant shall be reviewed by the HARB and approved by the Board of Supervisors.
- (b) Communications Towers in the public ROW shall not exceed 32 feet in height.
- (c) Any height extensions to an existing Communications Tower shall require prior approval of the Township, and shall not increase the overall height of the Communications Tower to more than 32 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- (d) Any proposed Communications Tower shall be designed structurally, electrically and in all respects to accommodate both the Applicant's Antenna and comparable Antenna for future users.

- (8) **Reservation of Rights.** In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Communications Tower in the ROW for numerous factors, including, but are not limited to, visual impact, design and safety standards.

- (9) **Additional Antenna.** As a condition of approval for all Communications Towers in the ROW, the Applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antenna on Communications Towers where technically and economically feasible. The owner of a Communications Tower shall not install any additional Antenna without obtaining the prior written approval of the Township.

- (10) **Relocation or Removal of Facilities.** Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Communications Tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Communications Tower when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:



- (a) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
  - (b) The operations of the Township or other governmental entity in the Right-of-Way;
  - (c) Vacation of a street or road or the release of a utility easement; or
  - (d) An Emergency as determined by the Township.
- (11) **Reimbursement For ROW Use.** In addition to permit fees as described in Section E(19) above, every Communications Tower in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each Communications Tower shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The annual ROW management fee for Communications Towers shall be determined by the Township and authorized by Resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such Communications Tower.
- H. **Police Powers.** The Township, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable Federal, State and local laws and regulations.
- I. **Waiver Provision.** The Township Board of Supervisors may waive any siting standards set forth in this Section where the Applicant demonstrates that the strict enforcement of said standard:
- (1) Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. §253(a); or,
  - (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. §332(c)(7)(B)(i)(II); or,
  - (3) Will violate any requirement set forth in the FCC Order entitled, "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment". WT Docket No. 17-79, and WR Docket No. 17-84; or,
  - (4) Will prohibit, or have the effect of prohibiting, the ability of an entity to provide Utility Service to any prospective customer within the Township.

J. **Permitting of Small Wireless Facilities and New Utility Poles With Small Wireless Facilities Attached For Deployment in the Right-of-Way.** The provisions of this Section shall apply to the permitting by the Township of Small Wireless Facilities by a Wireless Provider, or the installation, modification and replacement of Utility Poles with Small Wireless Facilities attached by a Wireless Provider within the Right-of-Way.

- (1) **Application Review.** A Small Wireless Application under this Section shall be reviewed by the Township's staff and its professionals for conformance with applicable zoning, subdivision and land development, building codes, design requirements, and any other applicable laws, codes, ordinances or regulations governing the installation, maintenance, operation and modification of Small Wireless Facilities.
- (2) **Permits Required.** The provisions of this Section apply to all Applicants seeking a permit for the deployment of Small Wireless Facilities or new Utility Poles with Small Wireless Facilities attached within the Right-of-Way.
  - (a) An Applicant must obtain the applicable zoning, construction, demolition, grading, highway occupancy, electrical or other necessary permits from the Township, including the issuance of a Certificate of Appropriateness by the HARB, to perform the following within the Right-of-Way:
    - i. Co-locate, maintain or modify Small Wireless Facilities;
    - ii. Replace existing Utility Poles for co-location; or,
    - iii. Install new Utility Poles with Small Wireless Facilities attached.
  - (b) An Applicant must demonstrate that the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached is designed to comply with applicable laws, codes, ordinances or regulations as follows:
    - i. All permit applications shall provide documentation that includes the construction and engineering drawings, demonstrates compliance with applicable criteria under Applicable Codes, demonstrates compliance with all applicable FCC, ANSI or other national standards governing Small Wireless Facilities, and includes all necessary written consents, co-location agreements or other written approvals from the owner of the Utility Pole.
    - ii. All permit applications shall include a certification that the filing of the applications by the Wireless Provider are required

to provide additional capacity or coverage for Wireless Services.

- iii. All permit applications shall include documentation showing compliance with the design guidelines under Section 27-1607.D, the Design Manual, and any design recommendations from the HARB that are approved by the Board of Supervisors.
- iv. All permit applications shall include a separate report, signed and sealed by a qualified, licensed professional engineer certifying that the Small Wireless Facility will comply with all FCC Regulations.
- v. All permit applications shall include plans, drawn to scale, depicting the proposed Small Wireless Facilities or new Utility Pole with Small Wireless Facilities attached and associated equipment to be mounted thereon and/or installed underground, which plans shall clearly and concisely depict all equipment and the measurements of same, to enable the Township staff and professionals to ascertain whether the proposed installation qualifies as a Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached as defined herein. The plans shall include complete calculations for all of the antennas and equipment comprising the Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached demonstrating that, when completed, the proposed facility meets the physical size limitations for Small Wireless Facilities and new Utility Poles with Small Wireless Facilities attached.
- vi. All applications shall include a site plan for the location of the Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached showing all existing and proposed structures and improvements, including Small Wireless Facilities and their antennas, roads, buildings, guy wires and anchors, stealth technology or other concealment measures, parking, sidewalks, landscaping, any grading necessary to complete the installation of the proposed facility, and any other additional design information required by the Design Manual.
- vii. All applications shall include a visual impact analysis report which shall include existing condition photographic images taken from perspectives of the properties adjacent to, and within 300-feet of, the location of the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached and plans identifying the location of the photographs, the distances and elevations from the proposed facility, and "line of sight" information identifying the degree of visibility of the proposed facility from each of the adjacent or proximate

properties, and the extent to which any stealth or concealment measures reduce the proposed facility's visibility. Said report shall also include renderings of the proposed facility for comparison to the existing condition photographs.

- viii. To the extent that an application seeks to co-locate a new Small Wireless Facility on an existing Utility Pole, with or without Small Wireless Facilities, the applicant shall provide a report, signed by a licensed professional engineer, certifying that the proposed Small Wireless Facility will not diminish the structural integrity of the existing Utility Pole, including an explanation of modifications necessary to enable such certification, and that the addition of the Small Wireless Facility will not present a safety risk to the public.
- ix. All applications shall include an Alternative Site Analysis demonstrating all less-intrusive alternative locations the applicant considered, setting forth their respective locations, elevations and suitability or unsuitability for installation of the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached. Said Alternative Site Analysis shall include all the necessary information required by the Design Manual and shall contain a statement certifying that no other suitable location for the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached was available. If said statement cites the inability to obtain permission to co-locate the proposed facility on an existing Utility Pole, documentation of said inability must be provided.
- x. All applications shall include a copy of any applicable license from the FCC possessed by any applicant, co-applicant or carrier(s) whose equipment is proposed for installation at the location of the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached.
- xi. All applications shall include an opinion of probable cost, prepared by a licensed professional engineer, for the removal of the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached should said Facility's use be discontinued or abandoned, or its permit revoked.
- xii. All applications shall include a signed, written consent of the property owner upon whose property the proposed Small Wireless Facility or new Utility Pole with Small Wireless Facilities attached wherein said property owner authorizes the applicant to file and pursue its application pursuant to this Section.

- xiii. All applications shall include a list of every property within 500-feet of the proposed facility, along with certification and proof that the owner(s) of each such property received notice of the application by first class mail. The envelopes containing said notice shall: (1) clearly identify the full name and return mailing address of the Applicant; (2) be clearly marked with a statement of the notice's purpose, e.g., "NOTICE OF SMALL WIRELESS FACILITY APPLICATION" or similar; (3) not be sent using a pre-sorted or bulk mail service; and (4) have postage in the form of either an applied stamp or metered postage for first class mailing rates.
- (3) **Application Fees.** The Township shall charge fees for the review of permit application packages on a per application basis as authorized pursuant to the Small Wireless Facilities Deployment Act [P.L. 232, No. 50, 53 P.S. § 11704.3(c)], as provided on the Township's adopted fee schedule.
- (4) **Application Completeness Review.** Upon receipt of an application package from a Wireless Provider for deployment of Small Wireless Facilities, the Township staff and its professionals will complete a review of the application package to determine whether the application package is complete. Within ten (10) business days of receiving the application package from the Wireless Provider, the Township will notify the Wireless Provider in writing whether the Township has determined the application package is incomplete. Such written notice shall, with reasonable clarity, specifically identify the defects of the application, including a description of such matters as the specific information or items that are missing from the application and/or any other reasons why the application is consider incomplete and/or defective. Any deadlines for processing an application package shall not commence until the Wireless Provider has provided all information necessary for the Township to determine the application package is complete.
- (5) **Processing a Completed Application.** Following a determination by the Township that a Wireless Provider's application package for deployment of Small Wireless Facilities is complete, the Township shall approve or deny the application package as follows:
- (a) Within sixty (60) days from the date an application package to co-locate Small Wireless Facilities on an existing Utility Pole within the Right-of-Way was deemed complete by the Township; or,
  - (b) Within ninety (90) days from the date an application package to replace an existing Utility Pole or install a new Utility Pole with Small Wireless Facilities attached was deemed complete by the Township.
  - (c) The application package processing deadlines included in

subparagraphs (a) and (b) above may be tolled by express written agreement between the Wireless Provider and the Township, or by the applicant affirmatively indicating its consent on the record at any public meeting of the Township. The Township shall be permitted to reasonably rely upon a representative of the applicant indicating that they are authorized to grant such consent on behalf of the respective applicant, on whose behalf they have been addressing the Township.

- (6) **Deemed Approval.** Any application package deemed complete by the Township and neither approved nor denied within the required time period described in Section 27-1607.J.(5), shall be deemed approved. Any individual permit associated with a deemed approved application package shall also be deemed approved and shall be issued by the Township to the Wireless Provider within seven (7) business days following the Township's receipt of a written request to issue said permit; provided, however, that the Township's delay in approving or denying the application package is not related to an issue of public safety. Notwithstanding the foregoing, when a permit has not been issued as hereinabove provided, the Applicant must notify the Township in writing of its intent to give public notice of said deemed approval, pursuant to the requirements of Section 913 of the Pennsylvania Municipalities Planning Code, no later than ten (10) days following the last day the Township could have issued said permit pursuant to Section 27-1607.J.(5). Said written notice to the Township shall be sent by certified mail, return receipt requested. Nothing in this subsection shall prejudice the right of the Township or any party opposing the application to appeal the deemed approval as provided for in Sections 1001-1006 of the Pennsylvania Municipalities Planning Code.

(7) **Denial.**

- (a) The Township may deny an application package under this Section if any of the following apply:
- i. The Small Wireless Facility materially interferes with the safe operation of traffic control equipment, clear sight lines or clear zones for transportation, or otherwise creates, expands or exacerbates a barrier to access by pedestrians as defined by the Americans With Disabilities Act of 1990 (P.L. 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement;
  - ii. The Small Wireless Facility fails to comply with applicable zoning, subdivision and land development, building codes or other applicable laws, codes, ordinances or regulations;
  - iii. The Small Wireless Facility fails to comply with the design recommendations of the HARB as approved by the Board of Supervisors;

- iv. The Small Wireless Facility fails to comply with the requirements specified under the Small Wireless Facilities Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.); or,
  - v. The Wireless Provider fails to submit a signed and sealed report by a qualified professional engineer certifying that the Small Wireless Facility will comply with all FCC Regulations.
- (b) Within five (5) days of the Township's denial of an application package, the Township shall provide a written denial to the Wireless Provider detailing, with reasonable clarity, the specific provisions of any applicable laws, codes, ordinances, rules, regulations or other applicable standards upon which the denial of the application package was based; however, said written denial must be provided within the application package processing deadlines set forth in Section 27-1607.J.(5) above.
  - (c) The Wireless Provider may, within thirty (30) days of receipt of the written denial, cure the deficiencies identified by the Township by resubmitting the application package. The Wireless Provider will not be required to pay an additional application package fee when resubmitting to cure the deficiencies of the original application package.
  - (d) The Township shall approve or deny the resubmitted application package within thirty (30) days of the application package's resubmission; however, the Township's failure to approve or deny the resubmitted application package within said thirty (30) days shall render the application package deemed approved and subject to the issuance of permits as set forth in Section 27-1607.J.(6) above.
  - (e) Any review of an application package resubmitted pursuant to subparagraph (c) above shall be limited to a review of the deficiencies contained in the written denial; provided, however, that all other aspects of the resubmitted application package remain unchanged from the original application package.
  - (f) If an application package resubmitted pursuant to subparagraph (c) above contains new information or addresses or changes other sections of the original application package that were not subject to the written denial, the Township shall have an additional fifteen (15) days to review the resubmitted application package and may charge an additional fee for said review.
- (8) **Consolidated Application Packages and Multiple Individual Applications From a Single Wireless Provider.** A Wireless Provider

seeking to co-locate within the Township may submit a consolidated application for co-location of multiple Small Wireless Facilities subject to the following:

- (a) The consolidated application package may not seek approval for more than twenty (20) Small Wireless Facilities.
- (b) The Township's denial of an individual or multiple Small Wireless Facilities in a consolidated application package shall not delay the processing of the remaining Small Wireless Facilities included in the same consolidated application package.
- (c) A single Wireless Provider may not submit more than one (1) consolidated or twenty (20) individual application packages to the Township in any thirty (30) day period. Should a single Wireless Provider submit more than one (1) consolidated or twenty (20) individual application packages within any forty-five (45) day period, the processing deadlines set forth in Section 27-1607.J.(4) above shall be extended by an additional fifteen (15) days to allow the Township to complete its completeness review of the application package.
- (d) The following additional provisions shall apply to consolidated or multiple applications submitted by a single Wireless Provider:
  - i. A single Wireless Provider shall not circumvent the consolidated or individual application package limits by requiring a third-party installation contractor to make application on behalf of that Wireless Provider and any application by such a third party contractor shall be, for the purposes of counting the number of Small Wireless Facilities a single Wireless Provider has before the Township, counted as an application by the Wireless Provider.
  - ii. Any application package tolled pursuant to Section 27-1607.J.(4) or Section 27-1607.J.(5)(c) above, shall count towards the total number of applications included in a consolidated application package subsequently submitted by a Wireless Provider unless said tolled application package is withdrawn by the Wireless Provider.
  - iii. As the processing of non-tolled application packages is completed, the Township will process tolled application packages in the order in which the tolled application packages were submitted unless the Wireless Provider specifies in writing a different processing order preferred by the Wireless Provider.

- (9) **Time Limitations For Completing Work.** The installation or modification



of a Small Wireless Facility on an existing Utility Pole, the replacement of an existing Utility Pole with a Small Wireless Facility attached, or the installation of a new Utility Pole with Small Wireless Facilities attached for which permits are granted by the Township under this Section shall be completed within one (1) year of the permit issuance date unless the Township and Wireless Provider agree in writing to extend the period.

- (10) **Utility Poles.** When making application to install a new Utility Pole under this Section, the Township may require the Wireless Provider to demonstrate that it cannot meet the service reliability and functional objections of the application by co-locating on an existing Utility Pole, Township Pole, Decorative Pole or other Small Wireless Facility Pole rather than installing a new Utility Pole. The Township may require the Wireless Provider to provide written certification that the Wireless Provider has made such a determination in good faith and to provide a documented summary of the basis for that determination. The Wireless Provider's determination shall be based on whether the Wireless Provider can meet the service objectives of the application by co-locating on an existing Utility Pole, Township Pole, Decorative Pole or other Small Wireless Facility Pole on which:
- (a) The Wireless Provider has the right to co-location;
  - (b) The co-location is Technically Feasible and would not impose substantial additional cost to the Wireless Provider; and,
  - (c) The co-location would not obstruct or hinder travel or have a negative impact on public safety.
- (11) **Approval.** Approval of an application package authorizes the Wireless Provider to:
- (a) Co-locate on an existing Utility Pole, modify or replace an existing Utility Pole with a Small Wireless Facility attached, or install a new Utility Pole with Small Wireless Facilities attached as identified in the initial application package; and,
  - (b) Subject to the permit requirements and the Wireless Provider's right to terminate at any time, operate and maintain the Small Wireless Facilities and any associated equipment on a Utility Pole covered by the permit for a term of not less than five (5) years, which term shall be renewed for two (2) additional five (5) year terms if the Wireless Provider maintains compliance with the criteria set forth in the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.), any applicable laws, codes, regulations or Township ordinances, and the Wireless Provider continues to have the consent of the Utility Pole and property owners.
- (12) **Removal of Small Wireless Facilities.** A Wireless Provider shall remove

any Small Wireless Facilities in the event of the occurrence of any of the following:

- (a) Within sixty (60) days of suspension or revocation of a permit for a Small Wireless Facility due to non-compliance with the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.), any applicable laws, codes, regulations or Township ordinances, and/or the failure to maintain the consent of the Utility Pole, Small Wireless Facility Pole or property owner, the Wireless Provider shall remove the Small Wireless Facility and any associated equipment, including the Utility Pole and any Small Wireless Facility Poles should the Small Wireless Facility be the only facility on the Utility Pole or Small Wireless Facility Pole, after receiving adequate notice from the Township and a reasonable opportunity to cure any non-compliance.
  - (b) Within ninety (90) days following the expiration of a permit term, or an extension of a permit term, as described in Section 27-1607.J.(11)(b), the Wireless Provider shall remove the Small Wireless Facility and any associated equipment, including the Utility Pole and any Small Wireless Facility Poles should the Small Wireless Facility be the only facility on the Utility Pole or Small Wireless Facility Pole, after receiving adequate notice from the Township and a reasonable opportunity to cure any non-compliance.
  - (c) In conjunction with an application for a Small Wireless Facility, the Applicant shall provide the Township with a Bond in an amount determined by the Township Engineer to guarantee the removal of the Small Wireless Facility.
- (13) **Work Not Requiring Application.** An application is not required from the Township for the following work:
- (a) Routine maintenance or repair work on an existing, permitted Small Wireless Facility;
  - (b) The replacement of an existing, permitted Small Wireless Facility with a Small Wireless Facility that is substantially similar to, the same size as or smaller than the existing Small Wireless Facility; provided, however, that the replacement Small Wireless Facility still qualifies as a Small Wireless Facility as defined herein.
  - (c) The installation, placement, maintenance, operation or replacement of Micro Wireless Facilities, as defined herein, that are strung on cables between existing Utility Poles by or for a Communications Service Provider authorized to occupy the Right-of-Way; provided that such installation, placement, maintenance, operation or replacement complies with the National Electrical Safety Code, FCC regulations,

and/or other Applicable Codes.

- (d) Notwithstanding the foregoing, the Township may require permits to perform work within the Right-of-Way for the activities described under subparagraphs (a) through (c) above, if that work involves excavation, closure of a sidewalk or closure of a vehicular lane when that work occurs after the completion of the original installation of the Small Wireless Facility. Any permits required pursuant to this subparagraph (d) shall be subject to the requirements of the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.), any applicable laws, codes, regulations or Township Ordinances, and the continued consent of the Utility Pole, Small Wireless Facility Pole, and/or property owners.
- (14) **Force Majeure.** In the event that any of the time periods stated herein for completing the review of an application for completeness, approval, or in any way affecting the determination of an application's approval are delayed due to natural and/or unnatural events and/or forces which are not within the control of the Township including, but not limited to, natural disasters, declarations of State or National emergencies, or mandatory compliance by the Township with Federal or State orders issued in relation thereto, such delays shall constitute reasonable delays which shall be recognized as reasonable grounds for extending or tolling the affected time period(s).
- (15) **Appeals.** An applicant may appeal the denial of a permit application. The appeal shall be to the Board of Supervisors and must be filed within thirty (30) days of the date of the written denial. The Board of Supervisors shall schedule a public hearing within sixty (60) days following the receipt of a timely appeal. Following the completion of any hearing held pursuant to such an appeal, the Board of Supervisors shall render the following factual findings based on the evidence presented at the hearing:
- (a) Compliance with the conditions and standards of this Section 27-1607 et seq., including the applicable provisions of the most-recently adopted version of the Design Manual.
  - (b) A determination of whether the proposed installation will inflict a significant adverse aesthetic impact upon properties adjacent to or within 300-feet of the proposed Small Wireless Facility.
  - (c) A determination of whether the proposed installation will inflict a significant adverse impact upon the property values of properties that are located adjacent to or within 300-feet of the proposed Small Wireless Facility.
  - (d) A determination of whether the proposed installation will be incompatible with the use and/or character of the properties located adjacent to or within 300-feet of the proposed Small Wireless Facility.

- (e) A determination of whether the proposed installation will be incompatible with and/or would have an adverse impact upon, or detract from the use and enjoyment of, and/or character of a historic structure, historic property, historic site, historic district adjacent to or within 300-feet of the proposed Small Wireless Facility.
- (f) A determination of whether the proposed installation will be incompatible with and/or would have an adverse aesthetic impact upon or detract from the use and enjoyment of, and or character of, recognized scenic areas or vistas, public parks, and/or any other traditionally or historically recognized valuable scenic or natural assets of the Township.
- (g) A determination of whether the applicant has satisfactorily mitigated the potential adverse impacts of the proposed Small Wireless Facility to the greatest extent reasonably feasible. The fact that a less intrusive location or design results in more expense to the applicant shall not be considered a valid substitute for mitigation efforts.
- (h) A determination of whether the applicant has satisfactorily demonstrated that the proposed Small Wireless Facility will comply with applicable FCC rules and regulations.
- (i) A determination of whether the applicant has satisfactorily demonstrated that the proposed installation complies with all requirements of the Telecommunications Act of 1996, as applicable.
- (j) A determination of whether the applicant has satisfactorily demonstrated that the proposed installation complies with all requirements of Section 106 of the National Historic Preservation Act, as applicable.
- (k) A determination of whether the applicant has satisfactorily demonstrated that the proposed installation complies with all requirements of the National Environmental Policy Act, as applicable.
- (l) A determination of whether the applicant has received all necessary permits and approvals from other government agencies having jurisdiction over the proposed installation.

**K. Additional Requirements For Small Wireless Facilities Co-Located on Township Poles or Decorative Poles.**

- (1) **Exclusive Use Prohibited.** The Township shall not enter into an exclusive arrangement with any person for the right to co-locate on any Township or Decorative Poles.

- (2) **Co-Location.** The Township will permit a Wireless Provider to co-locate a Small Wireless Facility on a Township Pole or Decorative Pole in accordance with all of the following:
- (a) Approval by the Township of an application package in accordance with the permitting procedures set forth in Section 27-1607.J;
  - (b) The co-location will not cause structural or safety deficiencies to the Township Pole or Decorative Pole, in which case the Wireless Provider and the Township shall negotiate an agreement for any make-ready work, including modifications or replacements, necessary to accommodate the Small Wireless Facility on the Township Pole or Decorative Pole; and,
  - (c) The co-location shall be installed and maintained so as not to obstruct or hinder travel or public safety within the Right-of-Way.
- (3) **Fees.** Subject to the provisions of the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.), the Township shall not charge a Wireless Provider an annual fee to co-locate Small Wireless Facilities on Township Poles or Decorative Poles.
- (4) **Implementation and Make-Ready Work.** Where make-ready work, including modifications or replacements, is necessary to implement co-location of a Small Wireless Facility on a Township Pole or Decorative Pole within the Right-of-Way, the Township and the Wireless Provider shall negotiate an agreement subject to the following:
- (a) The rates, fees and terms and conditions for any make-ready work to co-locate on a Township Pole or Decorative Pole shall be non-discriminatory, competitively neutral, commercially reasonable and in compliance with the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.).
  - (b) The Township shall provide a good faith estimate for any make-ready work necessary to enable the Township Pole or Decorative Pole to support the Small Wireless Facility, including replacement of the Township Pole or Decorative Pole, if necessary, within sixty (60) days after the receipt of a complete application package from the Wireless Provider.
  - (c) Make-ready work, including replacement of the Township Pole or Decorative Pole, shall be completed by the Wireless Provider within sixty (60) days of written acceptance of the good faith estimate by the Wireless Provider.
  - (d) The Township will require replacement of the Township Pole or Decorative Pole only if the Township demonstrates that the co-location

of the Small Wireless Facility would make the Township Pole or Decorative Pole structurally unsound.

- (e) The Township will not require more make-ready work than is required to meet Applicable Codes or industry standards.
  - (f) Fees for make-ready work on a Township Pole or Decorative Pole will not include costs related to damage existing prior to the date a complete application package is submitted to the Township.
  - (g) Fees for make-ready work on a Township Pole or Decorative Pole, including the replacement of same, will not exceed the actual costs or amounts charged to other similarly situated Communications Service Providers for similar work, and shall not include any professional fees or expenses that are charged on a contingent fee basis.
- (5) **Future Use.** The Township may reserve future space on an existing Township Pole or Decorative Pole for public safety or transportation uses subject to the following:
- (a) The public safety or transportation uses are part of an approved plan as adopted by the Township at the time a complete application package is submitted to the Township by the Wireless Provider.
  - (b) A reservation of space by the Township will not preclude the co-location on, the replacement of an existing, or the installation of a new Utility Pole for a Small Wireless Facility.
  - (c) If the replacement of a Township Pole or Decorative Pole is required to accommodate both co-location and the reserved future use, the Wireless Provider shall pay for the replacement of the Township Pole or Decorative Pole, and the Township Pole or Decorative Pole shall accommodate the future use.

**L. General Provisions For Small Wireless Facilities Located in the Right-of-Way.**

- (1) **Existing Agreements.** Any existing agreements between a Wireless Provider and the Township that are in effect as of the effective date of the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.) shall remain in effect, subject to any termination provisions in those agreements. When an application package is submitted after the effective date of this Section, a Wireless Provider may elect to have the rates, fees and terms and conditions established under the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.) apply to the Small Wireless Facility approved pursuant to that application package.

- (2) **Agreements.** This Section shall not be interpreted to require a Wireless Provider to enter into an agreement with the Township to implement the provisions of the Small Wireless Facility Deployment Act (P.L. 232, No. 50, 53 P.S. § 11704.1, et seq.). Notwithstanding the foregoing, nothing in this Section shall prohibit the Township from entering into an agreement with a Wireless Provider to implement said provisions; provided the agreement is nondiscriminatory and voluntarily entered.
- (3) **Indemnification.** Except for a Wireless Provider with an existing agreement with the Township to occupy and operate in a Right-of-Way, a Wireless Provider shall fully indemnify and hold the Township, its Board of Supervisors, elected or appointed officials, officers, employees and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses or fees or any other damages caused by the act, error or omission of the Wireless Provider or its officers, agents, employees, directors, contractors or subcontractors while installing, repairing or maintaining Small Wireless Facilities, Utility Poles or Small Wireless Facility Poles within the Right-of-Way. A Wireless Provider shall not be required to indemnify for an act of negligence or willful misconduct by the Township, its elected and appointed officials, employees, or agents.
- (4) **Radio Frequency Emissions.** No Small Wireless Facility may, by itself or in conjunction with any other Wireless Facility, generate RF emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled “Evaluating Compliance With FCC Guidelines For Human Exposure to Radio Frequency Electromagnetic Fields”, as amended.
- (5) **Limitation of Liability.** Notwithstanding the provisions of this Section, the Township shall not be liable to any Applicant as a result of accepting an Application or issuing a Permit in the event that an Applicant is prevented from placing, operating and/or maintaining its Small Wireless Facility pursuant to this Section by circumstances not within the scope and authority of this Section or outside the control of the Township.
- (6) **Insurance.** The owner or operator of a Small Wireless Facility issued a permit pursuant to the provisions of this Section shall annually provide the Township with a certificate of insurance, in a form satisfactory to the Township Solicitor, evidencing commercial and general liability coverage in an amount no less than \$2,000,000 per occurrence and \$5,000,000 in the aggregate and property damage coverage in an amount no less than \$2,000,000 per occurrence covering the permitted Small Wireless Facility and naming the Township as an additional insured on each policy. Any such liability insurance shall include coverage for RF pollution unless the Applicant, owner or operator of the Small Wireless Facility provides the Township with uncontroverted evidence that such coverage or equivalent alternate coverage is not generally available in the Berks County, Pennsylvania marketplace. Said certificates shall include a Notification

Endorsement requiring thirty (30) days notice to the Township upon the cancellation, revocation, expiration or cessation of the policy. Any permit issued for the location of a Small Wireless Facility pursuant to this Section shall be deemed revoked in the event said insurance policy is cancelled, revoked, expires or ceases to exist.

- (7) **Right of Access and Inspection.** Any duly authorized representative of the Township may access any Utility Pole, Township Pole or Decorative Pole with Small Wireless Facilities attached within the Township to inspect the implementation, condition or operation and maintenance of the Small Wireless Facility to ensure said Small Wireless Facility complies with the provisions of this Section.
- (8) **Ready Access.** All Small Wireless Facility owners and operators shall provide duly authorized representatives of the Township with ready access to all parts of the Small Wireless Facility for the purposes of determining compliance with this Section including, but not limited to, keyed access to secured enclosures attached, adjacent or proximate to any Utility Pole, Township Pole or Decorative Pole with Small Wireless Facilities attached.
- (9) **Contact Information Updates Required.** All Small Wireless Facility owners shall provide contact information to the Township for each owner, operator and/or Wireless Provider associated with each Small Wireless Facility permitted pursuant to this Section. Said contact information shall be updated annually or when any owner, operator or Wireless Provider contact information changes.
- (10) **Failure to Comply.** Any failure to comply with the provisions of this Section is a violation of this Chapter.
- (11) **Public Nuisance.** The violation of any provision of this Section is hereby deemed a public nuisance.

*(Ord. 374, 10/09/2017, §5, as amended by Ord. 384, 10/12/2020, §§1-13, as amended by Ord. 388, 12/12/2022, §§3-10)*

#### **§27-1608. Prohibited Uses and Performance Standards.**

- A. No building may be erected, altered or used and no lot or premises may be used in any District, for any use except for farming in its usual sense, which is noxious or offensive by reason of odor, dust, smoke, vibration, illumination, or noise or which constitutes a public hazard whether by fire, explosion or otherwise beyond the lot lines of the lot.
  - (1) In determining whether a proposed use is or may become noxious, hazardous or offensive, the following standards shall apply. The proposed activity or operation shall not:



- (a) Constitute a nuisance, or damage to health, livestock, vegetation or any other property by reason of dissemination of noxious, toxic or corrosive fumes, gases, smoke, odor or dust beyond a lot line of the lot on which the use is located.
- (b) Result in noise or vibration clearly exceeding the following levels at the property line, or in the case of an I District, beyond the District boundary line:

	<b>Between 7 A.M. and 7 P.M. (Decibels)</b>	<b>Between 7 P.M. and 7 A.M. (Decibels)</b>
Maximum	70	60
90% of time must be less than	60	50
50% of time must be less than	50	40

- (c) Endanger surrounding areas by reason of fire or explosion.
- (d) Produce noticeable or harmful heat or glare beyond the property line.
- (e) Result in electrical disturbance in adjoining properties or adversely affect the operation of equipment other than on the property on which the disturbance is located.
- (f) Discharge any untreated sewage, contaminated water or industrial waste into any stream, or onto any land, or otherwise contribute to the pollution of surface or underground waters.
- (g) Create a hazardous traffic condition on a public street or in an adjacent area or generate a nuisance to surrounding property by reason of truck traffic.
- (h) Endanger supply or quality of groundwater.
- (i) Result in the accumulation of offal, manure or other waste, animal, vegetable, mineral or chemical matter or any combination thereof, which may result in or encourage the propagation of mosquitoes, flies and other insect pests, unless the said land or building so to be used and employed shall be situated more than 2,000 feet distance from any dwelling used or usable for human habitation within the limits of the Township.

- (j) Create any other condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.
- (2) The applicant when requested shall demonstrate that:
    - (a) The proposed use will not be noxious, hazardous or offensive as defined above;
    - (b) The water supply is adequate to meet the additional requirements without danger to the supply to other properties.
  - (3) In order to determine that adequate safeguards are provided, the Zoning Officer, or the Zoning Hearing Board in any case where a use is made subject to special exception, may:
    - (a) Require that the applicant submit necessary information, impartial expert judgments, and written assurances;
    - (b) Consult with such official agencies or private consultants as may be deemed necessary; and,
    - (c) Require a bond.
  - (4) Areas used for the exterior storage of materials shall be screened from view from adjoining properties by means of a planting screen, fence or similar screen. Such screen shall be approved by the Township.
- B. In addition to the above, all uses shall comply with the Health and Safety Chapter [Chapter 10]. If any provisions of the Health and Safety Chapter is in conflict with this Chapter, the more restrictive provision shall govern.

**§27-1609. Off-Street Parking Requirements.**

- A. Off-street parking spaces shall be provided as follows:
- (1) Not less than two off-street parking spaces per single-family detached dwelling unit, with properly permitted access from a street and adequate turnaround space, shall be provided on any lot on which a dwelling is hereafter erected or a building restored to residential use.
  - (2) Off-street parking space, with properly permitted access from a street, shall be provided in the amounts indicated below, on or within three hundred fifty (350) feet of any lot on which the following types of uses are hereafter established, with reference to Part 19. Nothing in this Section shall be construed to prevent the establishment of joint parking facilities for two or more uses.

- (a) Any dwelling other than a single-family detached dwelling: Two spaces for each dwelling unit.
- (b) Motel, hotel, tourist house or similar establishment: One space for each rental room or suite plus one space per employee on the largest shift.
- (c) Restaurant or similar establishment: One space for every three seats plus one space per employee on the largest shift.
- (d) Auditorium, theater or other place of public assemblage, except churches: One space for every three seats.
- (e) Retail Store. One space for each two hundred fifty (250) square feet, or portion thereof, of floor area devoted to patron or office use, except that in the Village (V) District, the requirement shall be one space for each one hundred fifty (150) square feet of space.
- (f) Roadside stand: Not less than five (5) spaces.
- (g) Industrial establishment: One space for each one employee on the largest shift.
- (h) Office: One space for two hundred fifty (250) square feet of office space, excluding hallways, storage space and bathrooms, except that in the Village (V) District, the requirement shall be one space for each one hundred fifty (150) square feet of space.
- (i) For any building or use not covered above, a sufficient number of spaces to accommodate the number of automobiles likely to be used by the patrons or occupants, consistent with the principles set forth for comparable buildings or uses.

**B. Parking Area and Lot Design.**

- (1) Every parking area shall provide for safe internal traffic movement and avoid conflicts between vehicles and pedestrians.
- (2) Every parking area shall be designed so that each space is accessible without requiring the moving of any other motor vehicle, except on-site parking associated with a single family dwelling.
- (3) In no case shall a parking area for four (4) or more vehicles be designed to require or encourage cars to back into a public street in order to leave a lot.
- (4) Parking areas with less than ten (10) spaces may be either paved or surfaced with crushed stone.

- (5) All parking areas with ten (10) or more spaces shall be paved, and include clearly defined and marked traffic patterns.
- (6) Parking areas containing twenty (20) or more parking spaces shall have a curbed internal road system with a landscaped island or strip of a minimum width equal to one parking space separating the road system from the parking area to provide safe and orderly movement of traffic and discouragement of cross-aisle driving. The internal road system shall be designed to minimize the need for cross-pedestrian traffic, and the landscaped island shall be landscaped in accordance with an approved Landscape Plan.
- (7) All parking areas or other vehicular service areas, other than those relating to a dwelling, shall be adequately illuminated during night hours of use. Such lighting, including sign lighting, shall be arranged so as to protect the public street and adjoining property from direct glare or hazardous interference of any kind.
- (8) A turnaround space at the end of a driving island may extend into a required yard, but shall not be closer than three (3) feet from any property line. Such turnaround space, when located within required yards, shall not be used to locate trash collection dumpsters or other waste collection devices.
- (9) Parking lots serving multifamily dwellings, commercial or business uses, or recreational uses shall provide parking for the physically disabled in accordance with the requirements of the Americans with Disabilities Act (Public Law 101-336), and local, State, and Federal codes which implement the Act.
- (10) Off-street parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than that required under this Chapter.
- (11) Parking requirements for a lot or lots shall be reevaluated when a change of use occurs. Parking for any new use or change of use shall meet the requirements of this Chapter.

**C. Parking Spaces and Aisles.**

Parking space and aisle dimensions shall be no less than those listed in the following table:

Angle of Parking	Parking Width	Stall (Space) Depth	Aisle Width	
			One Way	Two Way
90	9'	18'	20'	24'
60	9'	21'	18'	21'*

	45	9'	20'	13'	18'*
	30	9'	18'	12'	18'*
Parallel		8'	22'	12'	18'

\* It is not recommended that angled parking permit two-way aisle traffic.

D. **Parking Held in Reserve.** If the number of spaces required by subsection A(2) is substantially larger than the number of spaces anticipated by the applicant, then the applicant may hold some of the parking in reserve in order to avoid unnecessary paving while ensuring adequate area for potential parking demands.

- (1) Suitable area must be available on the site for one hundred (100) percent of the parking required by subsection A(2) above.
- (2) The number of spaces which must be paved initially may be reduced by up to fifty (50) percent by the Township Supervisors, upon the recommendation of the Township Planning Commission. All storm water engineering shall be designed based on total parking requirements, including the reserve.
- (3) Suitable area must be reserved for the balance of the total number of spaces required by subsection A(2), these spaces shall be constructed by the applicant if and when determined necessary by the Supervisors, upon the recommendation of the Township Zoning Officer. The Supervisors may require the installation of these parking spaces under the following conditions:
  - (a) When there is evidence of a continued overflow of parking as installed by the applicant.
  - (b) When a reevaluation of the parking capacity by the Zoning Officer shows that future parking needs will not be met. The parking capacity shall be reevaluated whenever there is a change in use, ownership, number of employees, number of residents, building size and/or land area.
- (4) The Zoning Officer, after consultation with the Board of Supervisors, may deny or revoke the use and occupancy permit of any use that fails to comply with this provision.
- (5) A financial guaranty shall be provided by the applicant to cover the cost of installation of the parking spaces held in reserve, for a period of eighteen (18) months following the installation of the initially constructed parking spaces. The type and dollar value of the guaranty must be approved by the Township Supervisors upon recommendation of the Township Solicitor and Engineer.
- (6) To qualify for use of the reserve parking concept, the applicant shall provide evidence supporting reduced parking needs to the Township Planning Commission and Engineer for their review and recommendations.

**§27-1610. Loading and Unloading Space.**

- A. Paved off-street loading and unloading space, with proper access from a street, common driveway or alley, shall be provided on any lot on which a building for trade or business is hereafter erected or substantially altered. All such areas for the loading and unloading of vehicles, and for the servicing of establishments or shops by refuse collection, fuel, and other service vehicles, shall be so arranged that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities or pedestrian ways.
- B. Each off-street loading and unloading space shall be either: (a) at least fourteen (14) feet in width by forty (40) feet in depth; or, (b) at least ten (10) feet in width by sixty (60) feet in depth.
- C. Each space shall be located entirely on the lot being served and be so located that each space and all maneuvering room is outside of the required buffer areas, yard areas and rights-of-way.
- D. The number and size of loading spaces provided shall be appropriate for the use to be conducted on the premises and sufficient to accommodate all vehicles serving the use. At least one loading space shall be provided for each use. When a Zoning Permit (see §27-2204) is applied for, the application for the Permit shall show all provisions for off-street loading and include supporting data (data on number, frequency and size of vehicles which will use the loading facilities) which justify the number and size of spaces provided.

**§27-1611. Removal of Top Soil.**

No excavation in any District, including the I District, shall include the stripping or removal of top soil for sale or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

**§27-1612. Highway Frontage Development.**

- A. In order to encourage the sound development of highway frontage and to minimize traffic congestion and hazard, the following special provision shall apply:
  - (1) All areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically separated from the public street or highway by a planting strip which shall be landscaped in accordance with applicable Township ordinances. Said planting strip shall control un-channeled motor vehicles entrance or exit, except for necessary access ways or access roads which provide entrance to and egress from such

parking, loading or storage areas. All parking areas or lots shall be designed in such a manner as to provide adequate storage area and distribution facilities upon the lot to prevent backup of vehicles on a public street while awaiting entry to the lot.

- (2) Each use with less than one hundred (100) feet of frontage on a public street shall have not more than one access way to each such street, and no business or other use with one hundred (100) feet or more of frontage on a public street shall have more than two access ways to any one street for each three hundred (300) feet of frontage. Where practicable, movement into and out of parking areas shall avoid direct access to or from a major street.
- (3) In the case of a shopping center, group of apartment houses, industrial park or similar grouping of buildings on a lot:
  - (a) All parking, loading or service areas used by motor vehicles shall be located entirely within the lot lines of the property.
  - (b) All points of vehicular access to and from a public street shall be located not less than one hundred (100) feet from the intersection of any street lines.

**§27-1613. Setback on Major Highway.**

In the case of an arterial or collector highway as classified in the Comprehensive Plan of the Township, the front yard or setback shall be not less than eighty (80) feet in depth measured from the street line nor less than one hundred thirty (130) feet from the center line of the highway, whichever is the greater, unless a greater setback is required by another Section of this Chapter.

**§27-1614. Home Occupation.**

- A. In any Zoning District permitting home occupations, all dwelling units may be used for the practice of a home occupation, in accordance with the following:
  - (1) The principal person engaged in the home occupation must be a resident of the dwelling.
  - (2) The number of persons employed, on the premises of the home occupation, shall be limited to the residents of the dwelling unit plus a maximum of two (2) additional persons.
  - (3) No more than one home occupation shall be permitted per dwelling unit.
  - (4) No storage of materials or products shall be permitted outside of buildings.

- (5) No display of products shall be visible from adjoining properties or streets.
- (6) There shall be no outside advertising other than as permitted under Part 19 of this Chapter.
- (7) Such home occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations customarily conducted within a dwelling unit.
- (8) Not more than twenty-five (25) percent of the floor area of the dwelling unit may be used for the purpose of the home occupation.
- (9) In addition to the off-street parking spaces required for the residential dwelling, one parking space shall be provided for each employee who is not a resident of the dwelling and, for those home occupations which serve patrons, additional off-street parking spaces shall be provided in accordance with §27-1507 of this Chapter.
- (10) Home occupations shall be further limited by the requirements of §27-1604 of this Chapter.
- (11) In no case shall a home occupation be open to the public at times earlier than 8 a.m. nor later than 8 p.m.
- (12) Adequate sewage disposal methods and capacity shall be provided in accordance with the Pennsylvania Department of Environmental Protection regulations.
- (13) A Zoning Permit shall be obtained prior to start, expansion, or change of a home occupation in accordance with §27-2204 of this Chapter.

**§27-1615. Bed and Breakfast Inns.**

A. Where permitted, the following requirements shall apply to bed and breakfast inns:

- (1) The maximum number of rooms for rent shall not exceed four (4).
- (2) Adequate sewage disposal capacity shall be provided in accordance with Pennsylvania Department of Environmental Protection regulations.
- (3) Adequate parking is provided in accordance with §27-1507 of this Chapter.
- (4) No cooking facilities are permitted within the rooms for rent.
- (5) The maximum number of consecutive nights a room is rent to an individual shall be limited to seven (7).



**§27-1616. Kennels.**

- A. Where permitted, the following regulations shall apply to kennels:
- (1) All kennels shall comply with all applicable state codes and regulations.
  - (2) No kennel shall be located on a lot which is less than five (5) acres.
  - (3) All buildings in which animals are housed and all runs shall be located at least two hundred (200) feet from all lot lines or street right-of-way lines.
  - (4) Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot be perceived at the lot lines.
  - (5) Outdoor pens and runs may be used, provided that:
    - (a) A double row evergreen screen at least six (6) feet in height is provided and maintained around the outdoor pen and run.
    - (b) No animals shall be permitted outdoors between the hours of 8 p.m. and 8 a.m.

**§27-1617. Roadside Stand.**

- A. Roadside stands for the sale of dairy, farm, greenhouse or nursery products, at least fifty (50) percent of which are produced on the premises to which the stand is accessory, are permitted with the following restrictions:
- (1) **Size.** The area where products are displayed or sold shall not exceed eight hundred (800) square feet.
  - (2) **Location.** The stand shall be at least fifty (50) feet from an intersection, and shall be at least twenty (20) feet from the edge of the cartway of any adjoining street but, in any event, no structure shall be within the street right-of-way.
  - (3) **Removal in Off-Season.** The stand shall be portable, shall be maintained in good condition, and shall be removed during seasons when products are not being offered for sale, except as is allowed below.
  - (4) A stand may remain place through the year without being removed if it would be located a minimum of one hundred (100) feet from the existing street right-of-way line.
  - (5) **Parking.** Parking for vehicles shall be provided outside of the existing street right-of-way and in compliance with the provisions of §27-1507. Parking

shall be provided for a minimum of four vehicles.

**§27-1618. Fences.**

- A. **Prohibited Within Right-of-Way.** In all Zoning Districts, no permanent fence or wall may be erected within the right-of-way lines of any street.
- B. **Outdoor Private Swimming Pool Fences.** The intent of this Section is to prevent access to private swimming pools by children. For the purpose of this Section, private swimming pool shall be defined as: any structure that contains water over twenty-four (24) inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a residential dwelling and which is available only to the family of the householder and his private guests. This includes in-ground, above ground and on-ground swimming pools, hot tubs and spas. An outdoor private swimming pool shall be provided with a barrier or fence which shall comply with the following:
- (1) The top of barrier shall be at least forty-eight (48) inches above the finished ground level.
  - (2) Openings in the barrier shall not allow passage of a four (4) inch diameter sphere.
  - (3) Solid barriers that do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
  - (4) Access gates shall comply with the requirements of subsections (1) through(3) above, and shall be open outwards away from the pool and shall be self-closing and have a self-latching device with its release mechanism being child proof.
  - (5) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access or the ladder or steps shall be surrounded by a barrier which meets the requirements of §27-1618.B(1)-(4).

**§27-1619. Corner Lot Restrictions.**

On every corner lot there shall be provided a yard, equal in depth to the front yard requirement of the particular Zoning District in which the corner lot is located, on each side of the lot which is adjacent to a street.

**§27-1620. Mobile Home Requirements.**

- A. No manufactured home shall be permitted which fails to meet the standards of the Building Code [Chapter 5] of Oley Township or which does not bear the seal authorized by the United States Department of Housing and Urban Development (HUD) indicating that the manufactured home conforms to the standards of that agency (known as the HUD Certification Label). Mobile homes manufactured prior to June 15, 1976, shall be manufactured to the appropriate ANSI Code in force at the time of manufacture.
- B. Each manufactured or mobile home shall be completely skirted around its base and must be set upon at least a pier foundation consisting of mortared double-wide concrete blocks. The piers shall be spaced no more than eight (8) feet apart and set upon either concrete footings at least two (2) foot by two (2) foot square and twelve (12) inches thick and thirty (30) inches below finished grade or a level four (4) inch thick concrete slab with a four (4) inch thick crushed stone base. The width and length of the slab and base shall be equal to that of the manufactured or mobile home.
- C. No manufactured or mobile home lot shall be rented for occupancy except for a period of thirty (30) days or more.

**§27-1621. Erection of More Than One Principal Structure on a Lot.**

In any District, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that the area, yard and other requirements of this Chapter pertinent to the District in which the lot is located shall be met for each structure as though it were on an individual lot, unless otherwise specifically provided in this Chapter.

**§27-1622. Outdoor Flea Market.**

- A. Where permitted, the following regulations shall apply to outdoor flea markets:
  - (1) **Vendor Space.** Each vendor shall be provided with a minimum area of four hundred (400) square feet to allow for the display of items for sale and to provide a parking space for the vendor's vehicle. The vendor spaces shall be arranged in such a manner to provide safe and convenient access and egress of the vendor's vehicle without disturbing adjacent vendors. The vendor

spaces shall be improved and maintained to a mud free condition.

- (2) **Location.** The vendor spaces shall not be permitted within the front, side or rear yards as defined for the District in which the outdoor flea market is located.
- (3) **Removal in Off-Season.** The stands shall be portable, shall be maintained in good condition and shall be removed during days when items are not being offered for sale.
- (4) **Parking.** Two off street parking spaces shall be provided per each vendor space and shall be in accordance with §27-1607 of this Chapter.
- (5) When an outdoor flea market is located on a parking lot servicing another permitted use or uses, the vendor spaces and associated parking spaces shall not reduce the number of parking spaces required for the other uses below the minimum required by the Chapter.
- (6) The Zoning Hearing Board may place other restrictions and requirements on proposed outdoor flea market uses as the Board sees necessary for the protection of the general health, safety and welfare of the public.

**§27-1623. Erection of a Principal Structure on Two Adjacent Lots in the Same Ownership.**

- A. The owner(s) of two adjacent lots, both held in the same single and separate ownership, may erect a structure on the property line joining these lots or in one of the side yards between these lots, provided that:
  - (1) A new deed is prepared and recorded, consolidating the two properties into one unified legal description.
  - (2) The proposed structure meets the yard, area and other applicable requirements of this Chapter.

**§27-1624. Sewage Disposal and Water Supply.**

- A. All occupied buildings hereafter established shall be served by a potable water supply, and by a sewage disposal system which meets the requirements of the Pennsylvania Department of Environmental Protection.
- B. For purposes of this Section, an occupied building shall be defined as any permanent building which is occupied by a person or persons for residential or business purposes.

- C. This Section shall not apply to temporary or seasonal roadside stands which are established for the purpose of selling dairy, farm, greenhouse, nursery or similar products.

**§27-1625. Outdoor Restaurants.**

- A. Where permitted, the following requirements shall apply to outdoor restaurants:
- (1) Outdoor restaurants shall be permitted only in conjunction with an indoor restaurant on the same lot.
  - (2) Outdoor restaurants are permitted only in a Zoning District where restaurants are permitted.
  - (3) Outdoor music is prohibited.
  - (4) Serving of patrons occupying an outdoor restaurant must cease at nine (9) p.m. The area shall be closed to all patrons at ten (10) p.m.
  - (5) Outdoor restaurants must comply with all other applicable Township or regulatory agency requirements.

**§27-1626. Outdoor Farmers Market**

- A. Establishment of an outdoor farmers market shall be sponsored by one or more organization(s) or governmental entity, and will be wholly responsible for the organization, operation, clean-up, and safety of the outdoor market event.
- B. The outdoor farmers market may operate any time between 6:00 a.m. and 5:00 p.m., with set-up and take-down permitted no more than one (1) hour before 6:00 a.m. or after 5:00 p.m.
- C. The sponsoring organization or governmental entity shall coordinate the dates and times, site layout, parking, vehicle storage, and other key elements of the event with Township police and emergency services at least thirty (30) days in advance of the opening day of the market. A managing representative of the sponsoring organization shall be present during the outdoor farmers market hours of operation to oversee the event and to insure that all conditions of Special Exception approval, and these standards, are observed at all times.
- D. The sponsoring organization or governmental entity shall provide a sufficient number of portable public restroom facilities to meet anticipated crowd levels and be responsible for their maintenance and removal after the close of each outdoor market day.

- E. Items to be sold at the outdoor market shall exclude any products of a national chain or franchise, alcoholic beverages, firearms, tobacco, motor vehicles, antiques, collectables, adult toys or novelties, or any other product or item that is not consistent with the definition of outdoor farmers market contained in Part 2 of this Ordinance.

**§27-1627. Keeping of Grazing Animals.**

Large grazing animals including, but not limited to, cows, steers, ponies and horses of at least five hundred (500) pounds in weight, shall not be kept on any lot having a gross lot area of less than three (3) acres.

**§27-1628. Fuel Pump Islands and Canopies and Fueling Station Lighting.**

- A. Fuel pump canopies shall be limited in height as follows:
- (1) The bottom of a fuel pump island canopy shall be no higher than fourteen (14) feet. For the purpose of this Section, the bottom shall be measured from the ground to the highest point on the bottom of the canopy.
  - (2) The top of a fuel pump canopy shall be no higher than sixteen (16) feet. For the purposes of this Section, the top shall be measured from the ground to the highest point on the top of the canopy.
- B. Fueling station lighting shall be regulated as follows (also see lighting regulations in the Subdivision and Land Development Ordinance [Chapter 22]).
- (1) Lights used for illumination of motor vehicle fueling stations shall be shielded to prevent exposure of adjacent properties and roadways to direct glare or direct view of the light bulb or lens. This requirement shall apply to the fueling station buildings, accessory building or structures and the fuel pump canopies.

**§27-1629. Exterior Lighting.**

- A. **Safety and Personal Security Hazards.** If the Zoning Officer or other designated Township official, with the advice of the Township Engineer, judges an exterior lighting installation to create a clear safety or personal security hazard, the person(s) responsible for the lighting shall be so notified and requested to take timely remedial action.
- B. **Nuisance Glare and Inadequate Lighting.**
- (1) If the Zoning Officer, with advice from the Township Engineer, judges that an installation produces excessive nuisance glare or that illumination levels are

insufficient or not being maintained in accordance with the Township ordinances, the officer shall cause the notification to be sent to the person(s) responsible for the lighting and request remedial action.

- (2) If the infraction so warrants, the officer may act to have the problem corrected in accordance with the enforcement provisions of this Chapter.

**§27-1630. Renewable Energy Systems.**

A. The following requirements apply to renewable energy systems, where permitted by-right or by special exception approval.

- (1) **Solar Energy Systems.** All Solar Energy Systems installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
  - (a) Solar Energy Systems, whose surface area equals five (5) square feet or less if comprised of a single device, or twenty (20) square feet or less if aggregated as multiple devices, measured over the entirety of the lot or structure in question, are exempt from the regulations stipulated herein.
  - (b) The design, operation, and maintenance of Solar Energy Systems shall conform to applicable construction, electrical, and safety industry standards, including, but not limited to, the National Electrical Code and the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and its accompanying regulations.
  - (c) All exterior electrical and/or plumbing lines serving Solar Energy Systems shall be placed in conduit(s). Where above ground, said conduit(s) shall be compatible in color with the architectural trim of the building or structure.
  - (d) Solar Energy Systems shall be located on a building, lot, or parcel in a manner that ensures solar access without reliance on adjacent properties. If solar access from adjacent properties is required, the applicant shall submit documentation of adjacent property owner(s)'s agreement to the Zoning Officer using a Solar Easement.
  - (e) Solar Energy Systems shall be located on a building, lot, or parcel in a manner that avoids directing concentrated solar radiation or glare onto any adjacent property or public way.
  - (f) Solar Energy Systems shall not be used to display advertising of any type, and may only display signage when consistent with this Chapter and when said signage identifies the manufacturer and/or installer, or provides warning statements, or information related to the System's

energy-saving benefits.

- (g) Solar Energy Systems shall comply with the setback regulations of the underlying Zoning District.
- (h) All Solar Energy Systems shall be kept in good working condition and repair, safe from hazards, nuisances, and collapse. At the owner's expense, a Solar Energy System shall be disassembled and removed once said System has been determined by the Zoning Officer to have become a nuisance due to safety/inoperability concerns after a period of one (1) year.
- (i) All Ground-mounted Solar Energy Systems installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
  - i. The area of any Ground-mounted Solar Energy System shall be considered lot coverage as established by the underlying Zoning District and as regulated by the Oley Township/Schuylkill River Stormwater Management Ordinance. The area of lot coverage attributable to a solar energy system shall be measured as the entire area of the system (e.g., width X length) in a horizontal plane projected vertically upon the ground. Such coverage may be less than the actual surface area of the system due to slanted or angled installation.
  - ii. No part of a Ground-mounted Solar Energy System or its support structures shall exceed a height of fifteen (15) feet.
  - iii. Ground-mounted Solar Energy Systems shall not exceed the setbacks established by the underlying Zoning District, when measured from the outer-most edge of said Solar Energy System.
  - iv. Upon any disassembling and removal, any previously vegetated land covered by any Ground-mounted Solar Energy System shall be restored to prevent soil erosion and down gradient sedimentation within a time period to be specified by the Zoning Officer.
  - v. Unless further limited by provisions stipulated herein, any Ground-mounted Solar Energy System shall be limited to installation in the rear yard.
  - vi. The Zoning Officer may require screening of a Ground-mounted Solar Energy System, upon any future adoption of such standards within this Code of Ordinances.



- vii. A Ground-mounted Solar Energy System shall not block any required parking, sidewalks, or other improvements.
- (j) All Building-mounted Solar Energy Systems installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
  - i. Other than as allowed below, Building-mounted Solar Energy Systems shall not extend beyond the existing lines and overhangs of the structure to which it is attached.
  - ii. Building-mounted Solar Energy Systems shall extend no more than eight (8) feet above the height of the roof, subject to the height restrictions of the underlying Zoning District.
- (2) **Wind Energy Systems.** All Wind Energy Systems installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
  - (a) The design, operation, and maintenance of Wind Energy Systems shall conform to applicable industry construction, electrical, and safety standards, including, but not limited to, the National Electrical Code and the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and its accompanying regulations. Specifically, a Wind Energy System may not be climbable below fifteen (15) feet from the ground surface.
  - (b) All exterior electrical lines serving a Wind Energy System shall be placed in a conduit. Where above ground, said conduit(s) shall be compatible in color with the architectural trim of the building or structure.
  - (c) Wind Energy Systems shall not be used to display advertising of any type, and may only display signage when consistent with this Chapter and when said signage identifies the manufacturer and/or installer, or provides warning statements, or information related to the System's energy-saving benefits.
  - (d) All Wind Energy Systems shall be kept in good working condition and repair, safe from hazards, nuisances, and collapse. At the owner's expense, a Wind Energy System shall be disassembled and removed once said System has been determined by the Zoning Officer to have become a nuisance due to safety/inoperability concerns after a period of one (1) year.
  - (e) Upon any disassembling and removal, any previously vegetated land covered by any Free-standing Wind Energy System shall be returned

to its pre-installation condition to prevent soil erosion and down gradient sedimentation within a time period to be specified by the Zoning Officer.

- (f) The total height (i.e., the vertical distance between the ground level and the tip of a wind generator blade when the blade is at its highest point) of a Free-standing Wind Energy System and its support structure(s) may not exceed one-hundred (100) feet, except where located in the AP Zoning District and where said Wind Energy System is accessory to a principal agricultural use.
- (g) No Roof-mounted Wind Energy System shall be permitted.
- (h) No Free-standing Wind Energy System shall be located any closer to any lot line than the setback established by the underlying Zoning District, nor the distance that equals one and one-tenth (1.1) times the total height of the System, whichever is greater.
- (i) Wind Energy Systems shall comply, as applicable, with the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and any applicable regulations.
- (j) Wind Energy Systems shall be a non-obtrusive color such as white, off-white, or gray.
- (k) Wind Energy Systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- (l) All audible sound from Wind Energy Systems shall not exceed the criteria of §27-1608 of this Chapter.
- (m) Wind Energy Systems shall be sited to prevent shadow flicker on any occupied building on any adjacent landowner's property.
- (n) Wind Energy Systems shall not disrupt, nor cause the loss of, radio, telephone, television or similar signals beyond the lot or parcel occupied by the Wind Energy System.
- (o) In order to minimize the potential for hazards, nuisances, and collapse from poorly designed and/or constructed Wind Energy Systems, the applicant for approval of such a System shall document, based on thorough and objective research, that the Wind Energy System will generate enough energy to meet at least fifty (50) percent of the total energy needs of the building's principal use(s).

- (p) The structural support component of a Wind Energy System shall be a free-standing monopole, lattice tower, or other type of support that does not require guy wires.
- (3) **Geothermal Energy Systems.** All Geothermal Energy Systems installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
- (a) **Design and Permitting.** The design and installation of geothermal systems and related boreholes for geothermal heat pump systems shall conform to all applicable industry standards, including those of the American National Standards Institute (ANSI), the International Ground Source Heat Pump Association (IGSHPA), the American Society For Testing and Materials (ASTM), the Air Conditioning and Refrigeration Institute (ARI), or other similar certifying organizations, and shall comply with the Township Building Code and with all other applicable Township requirements. The manufacturer specifications shall be submitted as part of the application. A zoning permit and building permit, under the PA Uniform Construction Code, shall be required.
  - (b) **Permitted Types.** Only the following types of Geothermal Energy Systems shall be permitted:
    - i. Closed horizontal loop;
    - ii. Closed vertical loop; and,
    - iii. Open horizontal loop systems relying upon injection wells or watercourses.
  - (c) **Karst Geology and Sinkholes.** Recognizing that portions of Oley Township (are underlain by karst or carbonate geology and are prone to the potential formation of sinkholes, all applicants for Geothermal Energy Systems located in such areas shall acknowledge, and by virtue of the application for and installation of a Geothermal Energy System agree to, the following:
    - i. In all situations when boreholes or trenches are (or have been) excavated, or natural conditions have otherwise been disturbed (such as through the withdrawal of groundwater in an open-loop system), the likelihood of sinkhole formation increases;
    - ii. The applicant (or subsequent owner) accepts all responsibility and liability for any sinkholes that do form

in association with the applicant's Geothermal Energy System; and,

- iii. The applicant (or subsequent owner) agrees to repair any and all sinkholes that form in association with the Geothermal Energy System.
- (d) Appurtenances. All or any mechanical equipment (appurtenances) associated with and necessary for the operation of the Geothermal Energy System shall comply with all accessory setbacks for the District in which the system is installed.
- (e) Setback Requirements:
- i. Unless otherwise specified, Geothermal Energy Systems shall be set back a minimum distance of twenty-five (25) feet from any property line.
  - ii. Geothermal boreholes or trenches (in the case of horizontal loop systems) shall be set back a minimum of 100 feet from on-lot sewage disposal systems.
- (f) Closed-loop Geothermal Systems. The following regulations shall apply to all closed-loop Geothermal Systems:
- i. Permitted fluids. Unless otherwise specified, for all closed-loop Geothermal Energy Systems relying upon circulating fluids, only nontoxic, biodegradable circulating fluids, such as potable water, or aqueous solutions of potassium acetate or food-grade propylene glycol not to exceed 20% by weight, shall be permitted. A permanent sign must be attached to the heat pump specifying that only approved heat-transfer fluids must be used.
  - ii. Horizontal systems maximum depth. All closed horizontal loop systems shall be no more than twenty (20) feet deep.
- (g) Open-loop Geothermal Energy Systems. The following regulations shall apply to all open-loop Geothermal Energy Systems:
- i. Water extraction:
    - 1) Watercourses. Extraction of water from surface waters shall be prohibited.
    - 2) Groundwater. All open-loop Geothermal Energy Systems which extract water from groundwater

sources shall comply with extraction limitations set for potable water wells under Federal, State, County and Township laws and regulations. Installation requirements for extraction wells shall be the same as those for potable water wells, with respect to those regulations designed to prevent aquifer contamination (grouting, etc.), or in conformance with IGSHA standards, as determined by the Township Engineer.

ii. Above-ground discharge of water:

- 1) Discharge of water from open-loop systems into sanitary sewer systems shall be prohibited.
- 2) Discharge of water from open-loop systems into storm sewers, and onto roads, shall be prohibited.
- 3) Discharge of water from open-loop systems into a watercourse shall be prohibited.

iii. Underground injection of water. Underground injection of water from an open-loop Geothermal Energy System shall be subject to the following conditions:

- 1) Returned water shall contain no treatment additives or other introduced chemicals.
- 2) The return well shall be located a minimum distance of two hundred (200) feet from wells on adjacent properties.
- 3) The return well shall be located a minimum distance of one hundred (100) feet from the on-site well.
- 4) The return well shall recharge the groundwater from which supply water is extracted.
- 5) Because such return wells are included as “Class V Underground Injection Wells”, the applicant shall submit an “Inventory of Injection Wells” form, available from the U.S. Environmental Protection Agency, and shall comply with all Federal, State, County and Township laws and regulations.

(h) Abandonment or Disrepair. If the Geothermal Energy System is ever abandoned or enters into a state of disrepair, it shall be the

responsibility of the property owner to remove, permanently seal, or properly maintain the Geothermal Energy System within six (6) months from the date the system enters such a state.

- (i) Decommissioning. Any earth disturbance as a result of the removal or permanent sealing of the Geothermal Energy System shall be graded and reseeded.

(4) **Outdoor Wood-fired Boilers or Outdoor Hydronic Heaters, Known Generally as OWBs.** All Outdoor Wood-fired Boilers installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:

- (a) OWBs shall be permitted as accessory uses and accessory structures, where clearly incidental to the principal use on the property.
- (b) Design and Permitting. The design and installation of OWBs shall conform to all applicable industry standards, including those of the US Environmental Protection Agency (EPA), American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society For Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Township Building Code and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application. A zoning permit and building permit, under the PA Uniform Construction Code, shall be required.
- (c) Compliance With Other Regulations. The owner of the OWB shall provide evidence indicating that the maintenance and operation of the OWB will be in compliance with all applicable Operations and Performance Standards, as well as in compliance with all air emissions quality standards promulgated by the U.S. Environmental Protection Agency (EPA), PA DEP, or other relevant State or Federal agency including emissions of dust and particulates.
- (d) Setback Requirements. All OWBs shall be located a minimum distance of one hundred fifty (150) feet from any property line, street right-of-way, or any inhabited dwelling not located on the lot on which the OWB is proposed.
- (e) Historic Resources. If an OWB is proposed to be mounted on or located within one hundred (100) feet of any Historic Resource as may be designated by Oley Township, or determined to be eligible for listing on the National Register of Historic Places by

the Pennsylvania Historical and Museum Commission or the National Park Service, such OWB shall be subject to conditional use approval at the sole discretion of the Township following review and recommendation from the HARB and upon a finding that the proposed system will not adversely impact the historical significance or landscape context of the subject Historic Resource.

- (f) Stack. All OWBs shall have a permanently-attached stack. The minimum height of all stacks shall be twenty (20) feet above the ground and otherwise installed according to the manufacturer's specifications.
  - (g) Abandonment or Disrepair. If the OWB is ever abandoned or enters into a state of disrepair, it shall be the responsibility of the property owner to remove or properly maintain the OWB within six (6) months from the date the system enters such a state.
- (5) **Manure Digesters (Also Known as Anaerobic Digesters).** Manure Digesters are permitted in the AP District as a permitted use when located on and supplied entirely by feed-stock from a single farm or farms owned by a single party; or, as a use subject to conditional use approval when feed-stock is procured from farms owned by separate parties, or when owned and operated by an Agricultural Cooperative. All Manure Digesters installed, operated, and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
- (a) Permitted only on properties of ten (10) acres or more.
  - (b) Limited to supplying electrical or thermal power primarily for on-site use or for a farm co-op arrangement approved by the Township as part of conditional use approval.
  - (c) When a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company, as long as the electrical power generated is used primarily for on-site use or for the farm co-op. The owner of the accessory Manure Digester shall provide written confirmation that the public utility company has been informed of the customer's intent to install an interconnected customer-owned generator and also approves of such connection. Off-grid systems shall be exempt from this requirement.
  - (d) Design and Installation.

- i. The applicant shall address and document performance standards for siting to minimize impacts on neighboring properties which shall include considerations of odor, prevailing wind patterns, proximity to non-agricultural properties, operational noise, and specific hours of operation.
  - ii. Manure Digesters shall be designed and constructed in compliance with the applicable guidelines outlined in the Pennsylvania Department of Environmental Protection's Bureau of Water Quality Management publication(s), and any revisions, supplements and replacements thereto by the PA DEP.
  - iii. Manure Digesters shall also be designed and constructed in compliance with applicable Federal, State, County and Township laws and regulations. Evidence of all Federal and State regulatory agencies' approvals shall be included with the application.
  - iv. A certified professional, qualified to do such, shall furnish and demonstrate compliance with all details of construction, operation, maintenance and necessary controls related to the accessory Manure Digester.
  - v. Berks County Conservation District. The applicant shall provide either: (1) a letter from the Berks County Conservation District (BCCD) stating that the applicant's Manure Digester design has been reviewed and approved by the BCCD, and that all regulations and requirements of the State manure management program have been satisfied; or, (2) submit a letter from the BCCD stating that it will not review the plan or that no review is required under applicable laws and regulations; or, (3) submit evidence that such a letter has been requested and that the BCCD has failed to respond within sixty (60) days.
- (e) Geographic Range. The maximum radius from which a Manure Digester permitted herein may procure its feed- stock is eleven (11) miles, or that radius established by encompassing farm properties located within Berks County and owned by a single party, whichever is greater.
  - (f) Performance Standards. The proposed use shall be subject to the applicable Performance Standards of Section 27-1608.
  - (g) Setback Requirements. Manure Digesters shall not be located



within fifty (50) feet of any side property line, within seventy-five (75) feet of any rear property line, less than one hundred fifty (150) feet from any residential structure other than that of the property owner, and less than one hundred (100) feet from any public road right-of-way.

- (h) Lot Coverage. The footprint of an accessory Manure Digester shall be calculated as part of the overall lot coverage.
  - (i) Abandonment or Disrepair. If the Manure Digester is ever abandoned or enters into a state of disrepair, it shall be the responsibility of the property owner to remove or properly maintain the Manure Digester within six (6) months from the date the system enters such a state.
  - (j) Decommissioning. If a Manure Digester is ever removed, any earth disturbance as a result of the removal of the Manure Digester shall be graded and reseeded.
- (6) Any Manure Digester proposed as the principal use of a subject lot, or which imports all of the feed-stock used to support the system from off-site locations, shall not be permitted in Oley Township.
- (7) **Commercial Solar Energy Systems.** All Commercial Solar Energy Systems installed, operated and/or modified within the Township after the effective date of this Ordinance shall comply with the following provisions, as applicable:
- (a) The design, installation, operation and maintenance of Commercial Solar Energy Systems shall conform to all applicable Federal, State and Township construction, electrical and safety industry standards, including, but not limited to, the International Fire Code, the National Electrical Code, the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and its accompanying regulations, and the Public Utility Commission's interconnection rules and regulations.
  - (b) Such use shall have a minimum lot size of five (5) acres, and a maximum of twenty (20) acres.
  - (c) All on-site electrical distribution lines shall be placed underground, to the extent possible.
  - (d) Commercial Solar Energy Systems shall comply with the setback regulations of the underlying Zoning District.
  - (e) No part of a Ground-Mounted Commercial Solar Energy System or its support structures shall exceed a height of twenty (20) feet.

- (f) The area of any Ground-Mounted Commercial Solar Energy System shall be considered impervious material and calculated as part of the lot coverage as established by the underlying Zoning District and as regulated by the Oley Township/Schuylkill River Stormwater Management Ordinance. The area of lot coverage attributable to a Commercial Solar Energy System shall be measured as the entire area of the system (e.g., width X length) in a horizontal plane projected vertically upon the ground. Such coverage may be less than the actual surface area of the system due to slanted or angled installation.
- (g) Ground-Mounted Commercial Solar Energy Systems shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- (h) All mechanical equipment of Commercial Solar Energy Systems, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate, and provided with screening in accordance with the landscaping and screening provisions of the Code of Ordinances of the Township of Oley.
- (i) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (j) Commercial Solar Energy Systems mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.
- (k) Commercial Solar Energy Systems shall be located on a lot or parcel in a manner that ensures solar access without reliance on adjacent properties. If solar access from adjacent properties is required, the Applicant shall submit documentation of adjacent property owner(s) agreement to the Zoning Officer using a Solar Easement.
- (l) Commercial Solar Energy Systems shall be located on a building, lot, or parcel in a manner that avoids directing concentrated solar radiation or glare onto any adjacent property or public way.
- (m) Commercial Solar Energy Systems shall not be used to display advertising of any type, and may only display signage when consistent with this Chapter and when said signage identifies the manufacturer and/or installer, or provides warning

statements.

- (n) The Zoning Hearing Board may deny the request for a special exception where, upon review, the HARB deems the proposal to be destructive to the integrity of the historic resource(s) and/or where the Zoning Hearing Board finds the proposal to be inappropriate in the context of the immediate neighborhood.
  - (o) A Commercial Solar Energy System, and all materials, structures and accessory equipment installed within that system, that has not been in use for commercial generation purposes for six (6) months, shall be removed completely within ninety (90) days of the issuance of an enforcement action. The Township may require evidence of energy production upon request. Upon removal, the site shall be cleaned, restored and re-vegetated to blend with the existing surrounding vegetation, and to prevent soil erosion and down gradient sedimentation. A Commercial Solar Energy System owner shall post a bond or other financial security in a form acceptable to the Township at the time of zoning approval to cover the cost of equipment removal. Any and all additional or unanticipated costs of the system removal, including the full cost in the event the bond has expired or is insufficient, shall be the responsibility of the owner of the solar system. If a Commercial Solar Energy System remains non-functional or inoperative for a continuous period of one (1) year, and has not been removed, the System may be deemed to be abandoned, and may constitute a public nuisance and be condemned by the Township Zoning Officer as allowed for by the International Property Maintenance Code, 2015 Edition, (Part 2 of Chapter 5 of the Oley Township Code of Ordinances).
  - (p) For all Commercial Solar Energy Systems mounted on a pitched roof, there shall be provided a two (2) foot minimum setback from the roof ridgeline for the roof mounted solar modules to allow space for firefighters to penetrate the roof to create ventilation.
  - (q) For all Commercial Solar Energy Systems mounted on a flat roof, a three (3) foot setback for a minimum of two (2) roof edges shall be provided for roof mounted solar panels to ensure that firefighters may access the roof in a quick and safe manner.
- B. The applicant may submit evidence to establish, by a fair preponderance of credible evidence, that the design, operation, etc. of a proposed renewable energy system has changed beyond the scope of regulations codified herein such that new or revised General Regulations should be considered in any building permit, special exception, or conditional use approval that may be issued by the Zoning Officer, Zoning Hearing Board, or Board of Supervisors, respectively.

## C. Administration:

- (1) When considering a renewable energy system, the Zoning Officer shall forward the application to the Township's Historical Architectural Review Board and the Planning Commission for comment and recommendations.
- (2) Upon receipt of any approvals required under this Ordinance, all applicants for a permit to construct a renewable energy system shall pay all fees for application and inspection as may be required. Said fees shall be established by Resolution of the Township Board of Supervisors and may be revised from time to time.

*(Ord. 376, 10/28/2017, §7; and Ord. 380, 10/14/2019, §§1 and 2)*

**§27-1631. Timber Harvesting Operations.**

- A. Any Timber Harvesting Operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards for Timber Harvesting Operations set forth herein not less than thirty (30) days prior to commencement of the Timber Harvesting Operation. Within fifteen (15) working days of submission to the Township, a Timber Harvesting Plan shall be approved, denied or approved subject to reasonable conditions, and the applicant so notified in writing.
- B. Any Timber Harvesting Plan submitted to the Township for review and approval shall include a Plan or Plans indicating the following information:
  - (1) Site location and boundaries of both the entirety of the property upon which the Timber Harvesting Operation shall occur, and the specific area proposed for timber harvesting;
  - (2) Significant natural features on the property, including Steep Slopes, Wetlands and Riparian Buffer zones;
  - (3) Identification of areas of Forest Interior Habitat where timber harvesting is proposed to occur;
  - (4) The general location of the proposed operation in relation to municipal and State highways and any proposed accesses to those highways;
  - (5) Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails and landings;
  - (6) Design, construction and maintenance of water control measures and

structures, such as culverts, broad-based dips, filter strips and water bars;

- (7) Design, construction and maintenance of proposed stream and Wetland crossings; and,
  - (8) Indication as to means of compliance with Subsections E(2) and E(3) below regarding retention of Forest Canopy. For purposes of measuring compliance, applicable Basal Area may be calculated in lieu of identification of specific individual trees. In such cases, the methodology used to calculate Basal Area shall be described.
- C. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator, as applicable. Copies of all required permits shall be submitted to Oley Township at the time of submission of the Timber Harvesting Plan for review.
- D. The following management practices shall apply to all Timber Harvesting Operations:
- (1) No Timber Harvesting Operation shall be permitted within any Zone One Riparian Buffer.
  - (2) Felling and skidding of trees shall be undertaken in a manner which minimizes damage to trees or other vegetation not intended to be harvested (e.g., successive limbing up the tree rather than felling in its entirety).
  - (3) Felling or skidding across any public thoroughfare is prohibited without the express written consent of the Township or PennDOT, whichever is responsible for the maintenance of said thoroughfare.
  - (4) Slash, tops or litter resulting from a Timber Harvesting Operation shall either be cut to a height of three feet or less and left on-site, or chipped and recycled on-site. The burning of slash shall be prohibited.
  - (5) No tops, slash or litter shall be left within twenty-five (25) feet of any public thoroughfare or private roadway.
  - (6) Litter resulting from a Timber Harvesting Operation shall be removed from the site or otherwise dealt with as approved by the Township (e.g., chipped and recycled on-site).
  - (7) The operation shall not cause harm to any other property.
- E. Clearcutting shall not be permitted, and the following Forest Canopy retention provisions shall apply to any Timber Harvesting Operation, except where the submitted Timber Harvesting Plan proposes an alternative timber harvest approach acceptable to the Township. The Township may base approval of such alternative on the recommendation of the Township Engineer or other qualified professional.

- (1) A minimum of fifty (50) percent of the Forest Canopy Trees, or estimated Basal Area comprised of Forest Canopy Trees, shall remain in good condition after the completion of any Timber Harvesting Operation. Remaining Forest Canopy Trees shall be well distributed throughout the area subject to the Timber Harvesting Operation.
- (2) At least fifty (50) percent of the required remaining Forest Canopy Trees, as provided above, shall be comprised of Higher Value Species. Where the number or estimated Basal Area of trees comprising Higher Value Species that exist prior to the approval of any Timber Harvesting Operation, is less than that which would be required to comply with this provision, no Higher Value Species may be harvested.
- (3) Township representative(s) shall be permitted access to the site of any Timber Harvesting Operation before, during or after active timber harvesting to review, inspect and ascertain compliance with the provisions set forth herein.
- (4) Upon determination that a Timber Harvesting Operation is in violation of these regulations, each day where any violation occurs shall constitute a separate violation subject to the provisions of this Chapter.

**§27-1632. Special Provisions For Properties With Historic Resources.**

A. **Use Opportunities.** Where not otherwise permitted in the subject Zoning District, properties containing historic structures may be used for any of the following as the principal use or as an additional principal use, subject to approval by the Board of Supervisors as a conditional use pursuant to Subsection C below, and provided that uses which are not otherwise permitted in the underlying Zoning District shall be principally contained within historic structures:

- (1) Adult day care center;
- (2) Antique shop;
- (3) Artist studio or crafts workshop employing not more than three (3) persons. Such crafts may include model making, rug weaving, lapidary work, furniture making and similar crafts;
- (4) Child day care center;
- (5) Bed and breakfast use;
- (6) Cultural Studio, subject to the condition that if access is provided from a minor street, the use shall be limited to one class at a time with not more than ten (10) students in the class, and not more than two (2) instructors;

- (7) Food preparation or catering facility not involving food consumption, employing not more than three (3) persons on the premises;
- (8) Office or business office;
- (9) Personal service shop, including tailor, barber, beauty salon, dressmaking, or similar shop, but not including dry cleaning or laundromat, with a limit of one (1) employee per five-hundred (500) square feet of gross habitable floor area devoted to the service shop use;
- (10) Repair services, including small appliances, small business machines, watches, household furnishings, shoes, bicycles and locks, but shall not include automobile, truck, motorcycle or lawnmower repair, with a limit of one (1) employee per five-hundred (500) square feet of gross habitable floor area devoted to the repair service use;
- (11) Residential conversion of any historic structure into one or more dwelling units;
- (12) Other uses of a similar nature and similar neighborhood impact.

**B. Lot Area, Width, Building Coverage, Height and Yard Requirements For Historic Structures.** The Board of Supervisors may approve by conditional use modifications to applicable lot area, lot dimension, yard requirements or any otherwise applicable area and bulk regulation or design standard for plans affecting historic structures pursuant to Subsection C below.

**C. Specific Requirements For Conditional Use Approval.** In determining whether to grant a conditional use to permit the additional uses listed in Subsection A, or to modify the area and bulk requirements as permitted by Subsection B, above, the following requirements shall apply:

- (1) All applicable standards and criteria set forth herein for conditional use approval shall be complied with to the satisfaction of the Township.
- (2) The granting of conditional use approval shall be deemed to be necessary to the preservation of the historic resource(s).
- (3) Except where clearly detrimental to historical integrity and where public health, safety, and welfare are otherwise adequately provided for, all other applicable standards contained in this Chapter shall be complied with, including, but not limited to, requirements for buffering, lighting, storage, access and traffic management, interior circulation, loading, parking, and signs.
- (4) The Board of Supervisors may deny the request for additional use or for modification of area and bulk regulations where, upon the review of the

HARB, it deems the proposal to be destructive to the integrity of the historic resource(s) and/or where the Board finds the proposal to be inappropriate in the context of the immediate neighborhood.

**§27-1633. Landscaping and Screening.**

**A. General Landscaping Requirement.**

- (1) Landscaping shall be required at the time of Township application for any use permitted by this Chapter, except for:
  - (a) Agricultural, horticultural, and forestry uses;
  - (b) Single family detached, single family semidetached, or two-family detached dwellings, or any additions or modifications thereto;
  - (c) Woodland or game preserve, wildlife sanctuary or other conservation purpose;
  - (d) Structures customarily accessory to uses on the property which are listed above; and,
  - (e) Roadside stands, renewable energy systems, and no-impact home-based business.
- (2) Except for those uses listed above, any part or portion of any lot or tract which is proposed to be disturbed and not to be occupied by buildings or structures or used for loading, parking spaces and aisles, pedestrian circulation, designated storage areas, or other permitted impervious or semi-pervious surfaces, shall be landscaped and continuously maintained according to a Landscape Plan approved by the Township, or shall be left in its pre-existing condition or natural state (e.g., forest, meadow or hedgerow). Existing vegetation, natural features and historic resources shall be preserved wherever feasible and incorporated into the Landscape Plan.
- (3) The Landscape Plan shall be prepared by a registered Landscape Architect, and submitted with an application for Zoning Permit approval, or as part of the Oley Township Subdivision and Land Development Ordinance's Preliminary and Final Plan submission requirements, and shall clearly identify all landscaped areas, all areas subject to vegetation disturbance and replacement pursuant to Part 17, Natural Resource Conservation Standards, and any areas to be left in a natural state. The Landscape Plan shall comply with this Ordinance, the Oley Township Subdivision and Land Development Ordinance, and as set forth below.



B. **Screening.** Wherever applicable, landscape screening or buffering shall be included within the Landscape Plan consistent with this Ordinance. The following design standards shall be employed:

- (1) Vegetative screening shall include a variety of evergreen species so as to provide a year-round visual barrier. Evergreen plantings shall be provided that are at least seven (7) to eight (8) feet in height, planted at intervals no less than ten (10) feet on center. Where the Township agrees that an eventual screen (in 3-5 years) is acceptable in lieu of an immediate screen (to buffer future development, for example), evergreen plantings shall be at least four (4) to five (5) feet in height, substituted at a ratio of three to one as provided in Section D(1), and planted at intervals of five (5) feet on center.
- (2) Screening shall incorporate earthen mounds or berms where appropriate to improve sound as well as visual buffering. Where earthen berms are used, they should be designed to be low-profile, and supplemented with plantings so that an effective visual barrier of at least eight (8) feet in height measured from the crown of the adjoining public street is created in appropriate locations, particularly where used to screen outdoor storage, truck or heavy equipment parking, storage and loading areas or trash dumpsters from public view. If berms are used as a landscape or screening feature, plantings are to be installed on both sides of the berm, not solely at the ridgeline or top of the berm, and shall be subject to the review and approval of the Township. Side slopes shall not exceed a 4:1 ratio, and berms shall be designed to blend with adjoining property topographic conditions or similarly landscaped buffer rather than end abruptly at the property line.
- (3) No trees shall be placed with their center less than five (5) feet from any property line, and no shrubs with their center less than three (3) feet from any property line.
- (4) Screening shall be designed so as not to obstruct sight distances at intersections.
- (5) Vegetative screening shall be continuously maintained for the duration of operation of the use for which screening is required. During such period, any plant material which does not survive shall be replaced prior to the start of the next growing season.

C. **Parking Lot Landscaping.** All off-street parking areas, except those intended solely for use by individual single family residences, shall be landscaped with trees and shrubs of varying species, in accordance with the following:

- (1) Off-street parking areas shall be landscaped to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to ameliorate storm water drainage problems; to replenish the groundwater table using bioretention islands; to provide for a more attractive setting; to protect the character and stability of residential,

business, institutional, and industrial areas; and to conserve the value of land and buildings on surrounding properties and neighborhoods.

- (2) Any parking for 5 or more vehicles on a lot which abuts a Residential District or a lot for residential purposes, whether single- or multi-family, shall be screened from the adjacent property by an effective vegetative screen the entire length of said parking lot, in accordance with the requirements of this Section.
- (3) The interior of each parking area or lot shall have at least one shade tree for every ten (10) parking spaces. Such shade trees shall meet the requirements for street trees set forth in the Oley Township Subdivision and Land Development Ordinance, and all parking lot landscaping shall conform to the plant material standards set forth in subsection D. below.
- (4) Planting areas shall be placed so as to facilitate snow removal and to provide for safe movement of traffic without interference of proper surface water drainage. Planting areas shall be bordered appropriately to prevent erosion or damage from automobiles. Bollards may be used to afford protection of trees from vehicular movement.
- (5) Planting areas utilized for stormwater management/bioretention can count toward parking lot landscaping minimum requirements. Such planting area design and maintenance shall be clearly described in the Applicant's stormwater management plan submitted as part of a subdivision or land development application.
- (6) The landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except where there are more than twenty (20) spaces in which the following shall apply.
  - (a) Landscaped areas at least fifteen (15) feet wide shall be provided around the periphery of parking areas. Such areas shall, at a minimum, extend the full length and width of the parking areas, except for necessary access ways, to prevent the encroachment of moving vehicles into parking areas.
  - (b) Landscaped islands at least ten (10) feet wide shall be provided between each set of two parking bays, except as otherwise approved by the Township.
  - (c) Landscaped islands shall be provided at the end of each parking bay where such parking bay abuts or opens onto any street or accessway. Such landscaped islands shall be at least ten (10) feet in width and shall extend parallel to the parking spaces in each abutting parking area the length of one parking space. No more than twenty (20) parking spaces shall occur between islands. Parking bays providing more than twenty (20) spaces in a single bay shall be broken by a similar landscape island.

- (d) Two (2) feet of each parking stall adjacent to planting strips required in subparagraphs (1) and (2) above shall be of a permeable surface (e.g., concrete paver blocks filled with stone) to allow water to percolate into the ground.
- (e) Parking lots which do not conform to the criteria listed above shall be planted with the same ratio of trees to parking spaces as conventional parking lots, but these may be planted in more varied configurations.
- (f) All parking lots shall be designed to provide for safe, reasonable pedestrian access. Parking lots with more than fifty (50) spaces shall include paved pedestrian walkways. Pedestrian walkways may be located along or through landscaped islands or other landscaped areas adjacent to the parking lot.

**D. Minimum Planting Standards.**

All required landscaping shall meet the minimum planting standards, criteria for selection of plant material, and design standards of this Section.

- (1) The total number of plantings required shall be no less than the total calculated from all columns in the following table, and shall be in addition to any required replacement plantings due to woodland disturbance. The total number of required plantings may be dispersed throughout the tract to meet the objectives of this section. Additional plantings may be provided.

Improvement/Conditions	Deciduous Trees	Evergreen Trees	Shrubs
(a) Per 1,000 sq. ft. gross building area, ground floor only (building "footprint"). Residential subdivisions exempt.	2	1	8
(b) Per 2,000 sq. ft. off-street parking or loading area, excluding driveways less than 18 ft. wide. Residential subdivisions exempt.	1	1	4
(c) Per 100 linear ft. of new and existing public or private road frontage, measured on both sides where applicable	2	1	5
(d) Per 100 linear ft. of existing tract boundary, where not coincident with existing or proposed road frontage	1	2	8

- (2) Where Applicant can demonstrate to the satisfaction of the Township that existing vegetation, structural and/or topographic conditions located within 100 feet of existing tract boundaries or within 100 feet of the cartway of existing or new roadway segments will conceal, on a year-round basis, adjacent development from view from such tract boundary or roadway segments, the linear footage of such tract boundary or roadway segments may be excluded from calculation of required plantings as above.
- (3) Where calculation of the minimum number of plantings required as above results in fractions of plants required, the minimum number of plants required shall be rounded up to the nearest whole number.
- (4) Plantings used to comply with the minimum number of plantings required as above shall be:
  - (a) Deciduous trees: 3-3½ inch caliper, minimum.
  - (b) Evergreen trees: 7-8 feet in height, minimum.
  - (c) Shrubs: 24-30 inches in height, minimum.

- (5) Plantings and their measurement shall conform to the standards of the publications “American or U.S.A. Standard for Nursery Stock”, American National Standards Institute (ANSI) or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown within the same U.S. Department of Agriculture (USDA) hardiness zone as the site, shall be free of disease, and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this Section. At the discretion of the Township, plantings required as above may be waived or reduced if Applicant can demonstrate to the satisfaction of the Township that retaining existing plant material or other means of landscaping substantially achieves the objectives of this Section. The Applicant shall note, on all appropriate submittals, the location, type, extent, and condition of the existing plant materials or other means of landscaping that would be the basis for the proposed waiver or reduction. Should the Township issue a waiver or reduction, the approved, existing plant materials or other means of landscaping shall be protected during construction from impacts such as, but not limited to, root compaction, debarking, and soil stripping. The Township shall conduct a post-construction inspection, and reserves the right to require additional plantings if the existing plant material or other means of landscaping are damaged or did not survive construction.

**E. Criteria for Selection of Plant Material.**

- (1) Species selected by the Applicant shall reflect careful evaluation of the existing features and in particular the following considerations:
  - (a) Existing and proposed site conditions and their suitability for the plant materials, based upon the site's geology, hydrology, soils, and microclimate.
  - (b) Specific functional and design objectives of the plantings, which may include, but not necessarily be limited to: provision for landscape buffer, visual screening, noise abatement, energy conservation, wildlife habitats, and aesthetic values.
  - (c) Maintenance considerations such as hardiness, resistance to insects and disease, longevity, availability, and drought and salt resistance.
- (2) Use of native plants, because of their many benefits (such as ease of maintenance, longevity, wildlife habitat, etc.), is encouraged to meet the requirements of this Section. A Suggested Plant List is included in Subsection H.
- (3) Species for shade trees, including Street Trees, shall be selected with particular emphasis on hardiness, growing habit for pedestrian and vehicle passage, minimal need for maintenance, and compatibility with other features of the site and surrounding environs.

- (4) For the purposes of promoting disease protection, minimum maintenance, diverse natural plant associations, and long-term stability of plantings, the Applicant is encouraged to choose those combinations of species which may be expected to be found together under more-or-less natural conditions on sites comparable to those where the trees and shrubs are to be planted.

**F. Conservation of Existing Vegetation and Natural Features.**

Consistent with the Natural Resource Protection Standards of Part 17 of this Ordinance, all Landscape Plans shall be designed to conserve woodlands, hedgerows, water courses, specimen trees, and riparian buffer areas, and to minimize woodland disturbance. Applicants shall make all reasonable efforts to harmonize their plans with the conservation of existing vegetation and natural features.

**G. Site Maintenance and Guarantee.**

- (1) All landscape improvements, to be provided in accordance with this Section, shall be installed and maintained by accepted practices as recognized by the American Association of Nurseryman. Planting and maintenance of vegetation shall include, as appropriate, but not necessarily be limited to, provisions for: surface mulch, guy-wires and stakes, irrigation, fertilization, insect and disease control, pruning, mulching, weeding, and watering.
- (2) Applicant shall make arrangements acceptable to the Township that all landscaping incorporated into the Landscape Plan and proposed in accordance with this Ordinance shall be maintained in a healthy and/or sound condition, or otherwise be replaced once by equivalent improvements, for one complete growing season after the date of construction completion. After installation and prior to Township acceptance of the site improvements, representatives of the Township shall perform an inspection of the finished site for compliance with approved Landscape Plan(s).
- (3) Installation of landscape improvements shall be guaranteed along with all other site improvements in accordance with Subsection 6.A. of Section 22.601 of the Subdivision and Land Development Ordinance. The costs of landscape material and installation shall be considered in determining the amount of any performance guarantee required. At the Township's discretion, the Applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the proposed or existing vegetation in accordance with paragraph (2) above. In addition, an escrow may be required for the removal and replacement of specimen vegetation damaged during construction. These escrows shall be in addition to any financial security posted for dedication of other required improvements. At its sole discretion, the Township may remedy failure to complete installation or to maintain required landscape improvements in accordance with the provisions of this Ordinance.

H. **Suggested Plant List (not an exclusive list).**

Native species are indicated with an asterisk (\*).

<i>Botanical Name</i>	<i>Common Name</i>
<b><i>Street Trees</i></b>	
Acer rubrum*	Red maple
Acer saccharum*	Sugar maple
Celtisoccidentalis*	hackberry
Fraxinus Americana*	White ash
Fraxinusgrandifolia*	American beech
Fraxinuspennsylvanica*	Green ash
Gingko biloba (male grafted)	Gingko
Nyssa sylvatica*	Black gum
Platanusacerifolia	London planetree
Platanusoccidentalis*	American sycamore
Tiliaamericana	American linden
Tiliacordata	Littleleaf linden
Ulmus x 'Homestead'	Homestead elm
Ulmusparviflora	Chinese elm
Zelkovaserrata	Japanese zelcova
<b><i>Shade Trees (include all street trees plus:)</i></b>	
Betulanigra*	River birch
Caryaovata	Shagbark hickory
Cladastrislutea	Yellowwood
Gymnocladusdioicus*	Kentucky coffeetree
Koelreuteriapaniculata	Golden rain
Liriodendron tulipifera*	Tulip poplar
Liquidambar styracuflua*	Sweet gum
Quercus alba*	White oak
Quercuscoccinea*	Scarlett oak
Quercuspalustris*	Pin oak
Quercusphellos*	Willow oak
Quercusrubra*	Red oak
Sassafras albidum*	sassafras
Sophora japonica	Japanese pagodatree
Taxodiumdistichum*	Bald cypress

<i>Evergreen Trees</i>	
Abiesconcolor	Concolor fir
Ilex opaca*	American holly
Juniperusvirginiana*	Eastern red cedar
Piceaabies	Norway spruce
Piceaglauca	White spruce
Piceamorika	Serbian spruce
Pinusstrobus*	White pine
Pseudotsugamenziesii	Douglas fir
Thujaoccidentalis	Eastern arborvitae
Tsuga Canadensis*	Canadian hemlock
<i>Ornamental Trees</i>	
Amelanchier Canadensis*	Serviceberry
Betulanigra*	River birch
Carpinuscaroliniana*	Ironwood
Cercis Canadensis*	Redbud
Chionanthusvirginicus*	Fringetree
Cornusflorida*	Flowering dogwood
Cornuskousa	Chinese dogwood
Cornus mas	Cornelian cherry dogwood
Halesia Carolina*	Carolina silverbell
Koelreuteriapaniculata	Golden raintree
Magnolia soulangeana	Saucer magnolia
Magnolia virginiana*	Sweetbay magnolia
Malus sp.	Crabapple
Oxydendrumarboreum*	Sourwood
Prunuscerasifera	Purpleleaf plum
Prunuskwanzan	Kwanzan cherry
Prunussargentii	Sargent cherry
Prunussubhirtella pendula	var. Weeping cherry

(Ord. 2013-362, 10/14/2013, §16)



## PART 17

## NATURAL RESOURCE CONSERVATION

**§27-1701. Conservation of Natural Resources.**

A. Purpose. The following natural resource conservation standards are established to protect the public health, safety and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes:

- (1) Define and delineate selected natural resources within the Township, and establish resource conservation standards to assist the Township in reducing the impact proposed uses will have on the environment.
- (2) Preserve and protect areas which are naturally unsuitable for development or which provide valuable wildlife habitat, including stream valleys, riparian zones, Steep Slopes, floodplains, Woodlands, Wetlands and Seasonally High Water Table Soils.
- (3) Promote protection of local watersheds and critical aquifers, and the quality of groundwater and streams within the Township.
- (4) Conserve and protect natural resources within the Township in accordance with the Alsace-Oley-Ruscombmanor Joint Comprehensive Plan.

B. General Applicability of Conservation Standards.

- (1) In the event that the provisions of this Section and any other applicable regulation are in conflict, the more restrictive provisions shall apply.
- (2) In the event that two (2) or more natural resource areas identified in this Section occur on the same lot or tract, disturbance limitations shall be measured separately. Where such resource areas overlap, the most restrictive standard (the least amount of permitted alteration, regrading, clearing or building) shall apply to the area of overlap.
- (3) It shall be a violation of this Section to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Section prior to the submission, review and approval of any applicable application for zoning or building permit(s), conditional use or special exception approval, zoning variance or Subdivision or Land Development Plan(s).
- (4) Limitations to the disturbance of resources shall apply before, during and after construction on a site.
- (5) Disturbance limitations, established as a maximum percentage of permitted

disturbance, shall be applied concurrently as a percentage of each applicable resource area to the extent that it is present on the entirety of any tract or any lot AND as a percentage of the area within each discrete resource area measuring one acre or more. A discrete resource area is the entirety of any single contiguous area comprising any one resource regulated by the provisions of this Section. Any area of resource overlap shall be measured as part of the contiguous resource area with the most restrictive disturbance limitation. For example, if disturbance of twenty-five (25) percent of a particular resource area is permitted, then it shall apply as twenty-five (25) percent of the total area of that resource on the applicable lot or tract. In addition, the twenty-five (25) percent limitation shall apply individually to each discrete resource area measuring one acre or more, regardless of whether, collectively, such areas comprise twenty-five (25) percent of all areas of such resource on the applicable lot or tract.

- (6) Disturbance limitations shall be applied based on the occurrence of identified resource areas at the time of adoption of this Section. Disturbance permitted over time in multiple applications on the same lot or tract shall be measured against the same overall limitations established at the time of the first application after the adoption of this Section. For example, if applicable disturbance limitations for a particular resource permit two (2) acres of disturbance, and one (1) acre of disturbance is permitted upon the first application after the adoption of this Section, then only one (1) acre shall remain to be permitted for future disturbance of the applicable resource regardless of the total number of applications over the years.
- (7) Information submitted to demonstrate compliance with this Section shall be verified as correct by the Township Engineer or other qualified professional as determined by the Township.

C. Floodplain Conservation.

- (1) Areas identified as being floodplain shall not be re-graded, filled, built upon, channeled or otherwise altered or disturbed, except in conformance with any applicable regulation.
- (2) Identification of Floodplain Boundaries. The 100 year floodplain boundary shall be as determined by the provisions of Floodplain Management Ordinance Ord. 241 [Chapter 8] of the Township of Oley, enacted October 12, 1992, as it may be amended from time to time.
- (3) Permitted Uses and Structures Within The Floodplain Boundary. A lot within an area subject to floodplain management regulations may be used or occupied for any of the following purposes, provided that such use is permitted in the District in which the lot is located:
  - (a) Cultivation and harvesting of crops according to recognized soil conservation practices.

- (b) Pasture and grazing land.
  - (c) Outdoor plant nursery; orchard, excluding structures.
  - (d) Recreation use, such as: park, day camp, picnic grove, golf course, hunting, fishing and boat club, excluding structures.
  - (e) Forestry, lumbering and reforestation, excluding storage and mill structures.
  - (f) Game farm, fish hatchery, hunting and fishing reserve, excluding structures.
  - (g) Wildlife sanctuary, woodland preserves, arboretum.
  - (h) Sealed public water supply wells.
  - (i) Sewage treatment plant outfalls.
  - (j) Sanitary sewage collection pipes.
  - (k) Front, side or rear yards and required lot area, for any District.
  - (l) Farm buildings and farm structures not exceed 1,500 square feet.
  - (m) Residential accessory structures not exceed 1,200 square feet.
  - (n) Paved roads and driveways.
- (4) Special Exception Uses and Structures Within the Floodplain Boundary. Any of the following uses, when authorized by the Zoning Hearing Board as a special exception, subject to the standards prescribed in §27-2007.B.:
- (a) Sanitary sewage treatment plants.
  - (b) Dams, culverts and bridges approved by the Commonwealth of Pennsylvania, Department of Environmental Protection, if the same has jurisdiction over the watershed in question.
  - (c) Grading or regarding of land including the deposits of topsoils and the grading thereof and the construction of retaining walls.
  - (d) Impoundment basins.
  - (e) Farm buildings and farm structures in excess of 1,500 square feet.
- (5) Floodplain Management Chapter Requirements. All uses and structures

permitted by subsections (3) and (4) above, whether by right or special exception, are further made subject to Ordinance No. 241, known as the Floodplain Management Ordinance [Chapter 8] for Oley Township, enacted October 12, 1992, as it may be amended from time to time.

D. Steep Slope Conservation.

- (1) Where construction of roads, buildings, driveways or infrastructure cannot be avoided within areas regulated as Steep Slopes and/or within Steep Slope Margins, disturbance shall be kept to the minimum necessary and, in no case, shall more than twenty (20) percent of regulated Steep Slopes or Steep Slope Margins be re-graded, cleared, built upon or otherwise altered or disturbed.
- (2) All permitted buildings or structures shall be constructed in such a manner as to provide for the least alteration necessary of the existing grade, vegetation and natural soils condition.
- (3) Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible and strive for compatibility with the character of rural roads.
- (4) Any stockpile(s) of earth intended to be stored for more than twenty-one (21) days shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer. Any disturbed areas of Steep Slopes and any cut and fill resulting in slopes of greater than twenty (20) percent shall be protected with an erosion control blanket.
- (5) Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of Chapter 190, Subdivision and Land Development, and PA DEP Title 25, Chapter 102. All applicants shall refer to the PA DEP Erosion and Sediment Pollution Control Program Manual, dated March, 2000, or latest edition, for applicable erosion and sediment control standards. Where applicable, in the context of any application before the Township, any applicant shall permit inspection of erosion and sedimentation controls by designated personnel of both the Township and the Berks County Conservation District.
  - (a) An Erosion and Sedimentation Control Plan and Soil Stabilization Plan shall be submitted consistent with the requirements of Chapter 190, Subdivision and Land Development.
  - (b) The Plan shall demonstrate how soil will be protected from erosion during construction, and how soil will be stabilized upon the completion of construction.
- (6) Where structures or access roads or drives are proposed to be located all or

partially within any area of regulated Steep Slope or Steep Slope Margins, any applicant for building permit, conditional use, special exception, zoning variance or other Township permit shall submit information to the Township demonstrating the adequacy of access to the site for emergency vehicles. The necessary information shall be submitted by the applicant to the Fire Marshal or his designee for his review.

E. Wetlands Conservation.

- (1) Wetlands shall not be re-graded, filled, piped, diverted, channeled, built upon or otherwise altered or disturbed, including for purposes of access or utility crossings, except where all applicable permits have been obtained, and a copy thereof submitted to the Township.
- (2) Any applicant proposing a use, activity or improvement which would entail the re-grading or placement of fill in Wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of State and Federal Wetland regulations. Any applicant contacted by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers in regard to Wetlands also shall concurrently provide to the Township a copy of such correspondence.
- (3) Where required to comply with State or Federal regulation, any applicant also shall provide the Township with a full Wetland delineation report conducted by a qualified Wetland biologist, soil scientist or environmental professional of demonstrated qualifications, subject to the following:
  - (a) Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of Wetland vegetation, hydric soils and hydrologic indicators. Methods used in the Wetland delineation report shall be acceptable to the Township Engineer or other qualified consultant hired to review the submitted report by the Township.
  - (b) The Wetland delineation report submitted to the Township shall include a determination of whether Wetlands are present on the site, and a full delineation, area measurement (in square feet) and description of any Wetlands determined to be present.
  - (c) Where there is any question as to the accuracy of the Wetland delineation report, the Township may engage a separate consultant to review the data and make such examinations in the field as are required to verify or determine the extent of discrepancy from the applicant's Wetland report. In the event the Township finds the applicant's Wetland determination to be incorrect, the applicant shall be required to pay for the cost of the Township's determinations in

this regard. In the event that the applicant's Wetland determinations are found to be correct, the Township will bear the cost of separate verification of the Wetland report.

- (4) Where Wetlands exist and disturbance permits and/or mitigation activities are required, release of approved Final Subdivision or Land Development Plan(s) for recording or issuance of applicable permits from the Township shall be contingent upon the applicant receiving all necessary Wetlands permits and/or waivers permits. Such permitting shall include, as required by the Pennsylvania Department of Environmental Protection, a habitat screening for the potential presence of bog turtles or other endangered species or their habitat as designated by any State or Federal entity.

F. Watercourse and Riparian Buffer Protection Standards. The following provisions shall apply to Riparian Buffers, as defined herein. To the extent that regulations promulgated by the Pennsylvania Department of Environmental Protection, including, but not limited to, those set forth in Title 25, Chapter 102, are applicable, they also shall apply and, where more restrictive, shall supersede the provisions set forth herein.

- (1) Zone One – Inner Riparian Buffer. With the exception of those uses or activities listed below, no Land Disturbance shall be permitted within the Zone One Riparian Buffer:
- (a) Regulated activities permitted by the Commonwealth (i.e. permitted stream or Wetland crossing);
  - (b) Provision for trail and trail access where approved by the Township, with minimum disturbance to existing Woodland vegetation;
  - (c) Selective removal of hazardous or Invasive Vegetation; or,
  - (d) Vegetation management in accordance with an approved Landscape Plan or Open Space Management Plan.
- (2) Zone Two – Outer Riparian Buffer. Except for the following activities, no more than fifteen (15) percent of a Zone Two Riparian Buffer shall be re-graded, filled, built upon or otherwise altered or disturbed:
- (a) Activities permitted in the Zone One Riparian Buffer; or,
  - (b) Timber harvesting, when conducted in compliance with a Timber Harvesting Plan approved by the Township. Clear-cutting of timber shall not be permitted within the Riparian Buffer.

G. Conservation of Seasonally High Water Table Soils.

- (1) With the exception of those uses or activities listed below, and where not

otherwise regulated more restrictively under the provisions of this Chapter, no more than twenty (20) percent of any seasonally high water table soil shall be regraded, filled, built upon or otherwise altered or disturbed:

- (a) Regulated activities permitted by the Commonwealth (i.e. permitted stream or Wetland crossing);
  - (b) Provision for trail and trail access where approved by the Township;
  - (c) Selective removal of hazardous or Invasive Vegetation; or,
  - (d) Vegetation management in accordance with an approved Landscape Plan or Open Space Management Plan.
- (2) Notwithstanding the twenty (20) percent disturbance limitation set forth above, the following regulations shall apply to Seasonally High Water Table Soils:
- (a) No structures for human use or habitation or for regular animal occupancy shall be constructed in any area of soil where the seasonally high water table is within one (1) foot of the surface.
  - (b) No subsurface sewage system shall be constructed within any area of Seasonally High Water Table Soils.
  - (c) No road, driveway or emergency access shall cross any area of seasonally high water table soil, except where providing necessary access which clearly is otherwise impracticable and only where drainage, adequate base preparation and paving approved by the Township Engineer shall be provided.
- (3) Where site conditions indicate that the location of Seasonally High Water Table Soils differ from locations indicated by the NRCS, the burden shall be upon the applicant to verify such location(s) to the satisfaction of the Board of Supervisors; otherwise the NRCS information shall be presumed to be accurate. Where drainage improvements have been introduced to drain soil areas herein defined as Seasonally High Water Table Soils, such areas shall be considered Seasonally High Water Table Soils areas for the purpose of this Ordinance.
- (4) Where the applicant requests reclassification of Seasonally High Water Table Soils or adjustment of their location from that indicated by NRCS soils mapping, such request shall be supported by documentation submitted by a Certified Soil Scientist or other similarly qualified professional. Such documentation shall verify that soils investigations have been undertaken as described herein and observed in the field by the Township Engineer. Test pits shall be excavated at fifty (50) foot intervals along the length of the boundary of the Seasonally High Water Table Soils, based on the locations

indicated by NRCS soils mapping, both within and outside of the Seasonally High Water Table Soils. A written soil log shall be required for each test pit. A map shall be required showing the surveyed location of each test pit, as well as an identification number. A written report, prepared by a qualified professional, compiling the written logs, mapping and a summary of the delineated Seasonally High Water Table Soils area shall also be required. The Township Engineer shall review the report to determine compliance with the Zoning Ordinance and other applicable Ordinances, and issue a review letter to the Township.

H. Woodland Conservation.

- (1) Disturbance Limitations For Woodlands. Notwithstanding the provisions of this Section, timber harvesting shall be permitted where undertaken in compliance with the provisions set forth in Section 27-1631. Except for an approved Timber Harvesting Operation (see Section 27-1631), all Woodland Disturbance shall be subject to the following total disturbance limitations, unless modified subject to Subsection I(2) below, and where replacement plantings are provided subject to Subsection (4):
  - (a) Permitted Woodland Disturbance on any lot or tract shall not exceed ten (10) percent of any area defined as Forest Interior Habitat.
  - (b) Permitted Woodland Disturbance on any lot or tract shall not exceed twenty (20) percent of any Woodland other than Forest Interior Habitat.
  - (c) Disturbance limitations shall be measured based on the extent of the Woodland at the time of first submission of applicable application(s) after the adoption of this Section, and shall be indicated on applicable Plan(s). The extent of any area of Woodland Disturbance shall be measured to include the entire area within the drip line of any tree where any part of the area within the drip line of said tree is subject to Woodland Disturbance. Any disturbance limitation shall run with the land, once established. Subsequent applications shall be subject to the initial determination of disturbance limitations, regardless of intervening disturbance which may have occurred. If, at any time within three (3) years prior to an applicable application, there had existed a greater extent of Woodland, such greater area shall be utilized to calculate the extent of Woodland Disturbance and the limitations set forth herein.
  - (d) Clear-cutting of any Woodland area shall be prohibited, except to the minimum extent necessary to permit the implementation of an approved land development or building permit in conformance with this Section.
- (2) In determining where necessary Woodland disturbance shall occur in the



context of any subdivision or land development or building or zoning permit application, the applicant shall consider the following:

- (a) The location(s) and benefit of conservation of healthy mature Woodland stands.
  - (b) The impacts, in terms of functions and values to wildlife, of separating, dividing and/or encroaching on wildlife travel corridors and/or extensive habitat areas. Such impacts must be explicitly assessed in any area designated as one or more of the following:
    - i. Forest Interior Habitat.
    - ii. Riparian Buffers.
- (3) In areas of permitted Woodland Disturbance and areas adjacent to permitted Woodland Disturbance, remaining trees shall be protected from damage. The following procedures shall be utilized during construction in order to protect remaining trees:
- (a) Where existing trees are to remain, no change in existing grade shall be permitted within the drip line of the trees. Appropriate fencing four (4) feet in height shall be placed at the drip line of trees to remain, wherever adjacent to proposed construction. Such fencing shall be maintained in place throughout the duration of construction activity. Roots shall not be cut within the drip line of any trees to remain.
  - (b) Trees within twenty-five (25) feet of a building, or bordering entrances or exits to building sites, shall be protected by a temporary barrier to be maintained in place throughout the duration of construction activity.
  - (c) No boards or other material shall be nailed or otherwise attached to trees during construction.
  - (d) Construction materials, equipment, soil and/or debris shall not be stored nor disposed of within the drip lines of trees to remain.
  - (e) Tree trunks, limbs and exposed roots damaged during construction shall be protected from further damage by being treated immediately in accordance with accepted professional landscape procedures.
- (4) Woodland Replacement. Where subject to modifications to these provisions pursuant to Subsection I. below, Woodland Disturbance is permitted in excess of the limitations established in Subsection (1) above, replacement plantings shall be installed in accordance with the standards set forth below. A sample list of acceptable replacement plantings is found in Subsection K.

below.

- (a) Required Replacement Trees. At a minimum, for each five hundred (500) square feet of Woodland Disturbance area, or fraction thereof, in excess of the applicable standard set forth in Subsection (1) above, one (1) tree at least two (2) to two and one-half (2½) inch caliper shall be planted.
- (b) Required Replacement Shrubs. At a minimum, for each one hundred (100) square feet of Woodland Disturbance area, or fraction thereof, in excess of the applicable standard set forth in Subsection 1 above, one (1) shrub at least twenty-four (24) to thirty (30) inches in height shall be planted in addition to any required tree replacement.
- (c) Required replacement plantings shall be in addition to any required street trees or any other landscape material required under Section 27-1633 or any other applicable regulation.
- (d) Where approved by the Township as a condition of any building, zoning, subdivision or land development approval, or as a condition of grant of modification under Subsection I., required replacement trees may be substituted for greater numbers of trees of smaller caliper than otherwise required, or by vegetation other than trees (e.g., for purposes of reforestation).
- (e) Where approved by the Township as a condition of any building, zoning, subdivision or land development approval, or as a condition of grant of modification under Subsection 9.B, some or all of the required replacement plantings may be installed at a site other than that subject to required replacement planting.
- (f) In lieu of actual installation of replacement plantings, the Township may permit any applicant to place the equivalent cash value, as agreed upon by the Township and the applicant, for some or all of the required replacement plantings into a special fund established for that purpose. Such fund shall be utilized at the discretion of the Township for the purchase and installation of plantings elsewhere in the Township. Installation of such plantings on private lands shall be dependent upon the establishment of conservation easement(s) or other restriction(s) acceptable to the Township that will reasonably guarantee the permanent protection of such plantings. Where the provisions of this Section are otherwise applicable, any grant of approval of modifications requested pursuant to Subsection 9.B also may be conditioned upon the placement of equivalent cash value for otherwise required replacement plantings into such a fund.
- (g) The locations, selected species and sizes of all replacement plantings, along with a planting schedule tied to the timing and/or phasing of the

development, shall be indicated on the Final Subdivision/Land Development Plan(s) or building or zoning permit application, as applicable.

- (h) Required replacement vegetation and their measurement shall conform to the standards of the publications “American or U.S.A. Standard for Nursery Stock”, ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this Section.
- (i) Species of replacement plantings selected and planting locations shall reflect careful site evaluation and, in particular, the following considerations:
  - (i) Existing and proposed site conditions and their suitability for the plant materials, based upon the site’s geology, hydrology, soils and microclimate.
  - (ii) Specific functional and design objectives of the plantings, which may include, but not necessarily be limited to: replacement of Woodland area removed, enhancement of existing Woodland or Oldfield area(s), reforestation of Riparian Buffer areas, mitigation of new Woodland edge conditions as a result of Land Disturbance, provision for landscape buffer, visual screening, noise abatement, energy conservation, wildlife habitats and aesthetic values.
  - (iii) Maintenance considerations, such as hardiness, resistance to insects and disease, longevity and availability.
  - (iv) Because of the many benefits of native plants (ease of maintenance, longevity, wildlife habitat, etc.), the use of nursery-grown free-fruited native trees and shrubs is strongly encouraged. Species selection should reflect species diversity characteristic of the native deciduous Woodland.
- (j) All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least twenty-four (24) months, or shall be replaced. In addition, the applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the proposed vegetation during the twenty-four (24) month replacement period, and to provide for the removal and replacement of vegetation damaged during construction, based upon the recommendation of the Township Engineer.

I. Application of Natural Resource Conservation Standards.

- (1) Plan Information and Delineation of Natural Resources. To ensure compliance with the natural resource conservation standards of this Section, the following information shall be submitted by the applicant when applying for a zoning or building permit, conditional use or special exception approval, zoning variance or subdivision and land development approval where Land Disturbance is contemplated. In those cases where only a limited amount of the site will be subject to disturbance, the Zoning Officer may determine the area of land required to be shown on the Plan such that information submitted will adequately demonstrate compliance with the natural resource conservation standards of this Section. Where less than the entire site is to be shown on the Plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the Plan information. Where the following information is deemed by the Zoning Officer or the Township Engineer to be adequately addressed in any required Drainage Plan submission or subdivision and land development application, it need not be separately submitted.
  - (a) A Site Plan which identifies the limits of all natural resources on the site regulated pursuant to this Section, including areas of Woodlands or other vegetation to be preserved, and the proposed use of the site, including any existing or proposed structures.
  - (b) The limits of all encroachments and disturbances necessary to establish the proposed use on the site, including a Grading Plan showing existing and proposed contours.
  - (c) Calculations indicating the area of the site comprising each of any regulated natural resources and the area of each of such natural resources that would be disturbed or encroached upon. The calculations shall be shown on submitted Plan sheet(s).
  - (d) Deed restrictions, conservation easements or other mechanisms proposed to ensure continued resource protection where applicable and subject to Township approval.
- (2) Modifications to Natural Resource Conservation Standards.
  - (a) For any use or activity subject to subdivision or land development review, as part of applicable Plan submission, modification(s) may be requested to the provisions of this Section. Requested modification(s) may be granted at the discretion of the Board of Supervisors pursuant to the provisions of the Subdivision and Land Development Ordinance.
  - (b) For any use or activity not subject to subdivision or land development review, but where the use or activity is subject to application for

approval of a conditional use, special exception or zoning variance, modification(s) to the provisions of this Section may be requested as part of such application.

- (c) For any use or activity not otherwise subject to permit or approval as provided in subsections (1) or (2) above, modification(s) to the provisions of this Section may be requested in the form of an application for grant of a special exception by the Zoning Hearing Board. Such applications shall be submitted to the Township Planning Commission for review and comment prior to formal special exception application to the Zoning Hearing Board.
- (3) In consideration of approval of any request for modification(s) under this subsection, it shall be determined that the specific nature of the lawful use or activity, existing site conditions and/or safety considerations warrant such modification(s), and that the resource protection purposes of this subsection shall be adhered to, to the maximum extent practicable.

J. Violations and Penalties.

- (1) In addition to any other remedies available under law, the Township may institute and maintain appropriate actions at law or in equity to restrain, correct or abate a violation of this Section, or to restrain, correct or abate unlawful conduct or a public nuisance resulting from or causing such violation.
- (2) In addition to other remedies, the Township may, but without obligation to do so, abate or remove the violation, in event the responsible party fails to do so upon notice. Where the Township proceeds to abate or remove the violation, the cost and expense of such work and fines and penalties shall be a lien against the property charged to the persons affected; and, upon nonpayment, the Township may file a municipal claim therefore upon the affected premises, in addition to other remedies available at law or equity for the collection of municipal debts. The lien shall attach as of the time the work commenced.
- (3) The penalties and remedies prescribed herein shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the Township from exercising any other remedy provided by this Ordinance or otherwise provided at law or equity.

K. Suggested Plant List. The following list includes species acceptable for Woodland replacement plantings. Examples of species appropriate for use where screening or buffering is desirable or required are indicated with an asterisk (\*). Appropriate species for street tree plantings are indicated by the notation "ST". Specific species selection and planting locations shall reflect careful site evaluation as further set forth herein.

**Tree, Common Name****Botanical Name*****Evergreen Trees***

Eastern Red Cedar\*  
 Canadian Hemlock  
 Red (Eastern or Yellow) Spruce\*  
 Norway Spruce\*  
 Eastern White Pine\*

Juniperus virginiana  
 Tsuga canadensis  
 Picea rubens  
 Picea abies  
 Pinus strobes

***Shade Trees***

Red Maple, ST  
 Sugar Maple, ST  
 White Ash, ST  
 Green Ash, ST  
 Sycamore  
 White Oak, ST  
 Northern Red Oak, ST  
 Tulip Poplar  
 Scarlet Oak, ST  
 Pin Oak, ST  
 Shagbark Hickory  
 American Basswood  
 American Beech  
 Black Cherry  
 London Plane Tree

Acer rubrum  
 Acer saccharum  
 Fraxinus americana  
 Fraxinus pennsylvanica  
 Platanus occidentalis  
 Quercus alba  
 Quercus rubra  
 Liriodendron tulipifera  
 Quercus coccinea  
 Quercus palustris  
 Carya ovata  
 Tilia americana  
 Fagus grandifolia  
 Prunus serotina  
 Platanus acerifolia

***Small Trees and Shrubs***

Rhododendron  
 Black Chokecherry  
 Shadbush/Serviceberry\*  
 Redbud  
 Flowering Dogwood\*  
 Winterberry  
 Washington Hawthorn\*  
 New Jersey Tea  
 Sourwood  
 Ironwood  
 Arrowwood  
 Black Haw  
 Maple Leaf Viburnum  
 Mountain Laurel  
 Highbush Blueberry  
 Lowbush Blueberry  
 Common Juniper

Rhododendron sp.  
 Aronia melanocarpa,  
 Amelanchier canadensis  
 Cercis canadensis  
 Cornus florida white  
 Ilex verticulata  
 Crataegus phaemopyrum  
 Ceonothus americanus  
 Oxydendrum arboreum  
 Ostrya virginiana  
 Viburnum dentatum  
 Viburnum prunifolium  
 Viburnum acerifolium  
 Kalmia latifolia  
 Vaccinium corybosum  
 Vaccinium vacillans  
 Juniperus communis

**§27-1702. Wellhead Protection.**

- A. **Purpose.** The following well head protection standards are established to protect the public health, safety and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes:
- (1) Protect groundwater-based water supply sources within the Township from contamination.
  - (2) Protect groundwater resources from excessive extraction and depletion.
  - (3) Manage land use activities that store, handle or produce hazardous materials which can contaminate water supply sources through improper stormwater and other inadequate site management.
  - (4) Encourage the use of best management practices (regulatory and non-regulatory).
  - (5) Protect future groundwater sources of drinking water within the Township.
  - (6) Recognize local government responsibility in protection of groundwater resources.
  - (7) Encourage work with neighboring communities for adequate protection of resource areas extending into other jurisdictions.
  - (8) Implement the 2011 Oley Township Municipal Authority Source Water Protection Plan.
- B. **Applicability.** These provisions specifically apply to wells serving public and community water supply systems, and apply only to those land uses on parcels located within a Well Head Protection Zone that use or store hazardous materials in quantities meeting or exceeding established quantity thresholds, as defined herein, or which otherwise conduct a specific activity identified in Section 27-1702.D.
- C. **Establishment and Delineation of the Well Head Protection Zones.** The Well Head Protection Zones are Zone I and Zone II, as shown on the Wellhead Protection Zones Plan, prepared by Brandywine Conservancy, dated October 6, 2011, and included in Appendix A., and shall be defined as:
- (1) **Zone I.** A protective area immediately surrounding a public water supply well with a radius defined by the Township Municipal Authority's 2011 Source Water Protection Plan, and specified as follows:
    - Well 1.** A radius of 100 feet.
    - Well 2.** A radius of 180 feet.
    - Well 3.** A radius of 120 feet.

**Well 4.** A radius of 100 feet.

- (2) **Zone II.** The capture zone having up to a ten-year time-of-travel to the public water supply.
- (3) This Ordinance, including the delineation of these two Well Head Protection Zones, is based on technical analysis supporting the Oley Township Municipal Authority's Source Water Protection Plan (2011).

D. Permitted Uses and Structures Within the Well Head Protection Zones.

- (1) A lot within either Well Head Protection Zone may be used or occupied for any use permitted within the underlying Zoning District, except for those uses specifically regulated according to the provisions of Paragraph 2 below.
- (2) The following uses, where otherwise permitted by the underlying Zoning District, will be prohibited or permitted only by Special Exception within Zone I and Zone II, as applicable:

**SCHEDULE OF USES SPECIALLY REGULATED IN THE  
WELL HEAD PROTECTION ZONES**

- (a) Automatic self-service laundry or dry cleaning establishment, as permitted in the HB District and V District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (b) Motor vehicles service station, as permitted in the HB District and V District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (c) Heavy manufacturing use, as permitted in the LIB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (d) Land application of wastewater and waste sludge, manure, fertilizers, herbicides and pesticides, incidental and accessory to an agricultural, horticultural or forestry use, as permitted in an underlying District: Zone I – Prohibited; Zone II – as permitted in the underlying District with a Nutrient/Manure Management Plan in place.
- (e) Open burning sites and dumps, incidental and accessory to a use permitted in the underlying District: Zone I – Prohibited; Zone II – Prohibited.
- (f) Road salt stockpiles, incidental and accessory to a Township, governmental or public utility use permitted in the underlying District: Zone I – Prohibited; Zone II – Prohibited.
- (g) Storage of fuels, incidental and accessory to a use permitted in the HB



District, the V District or the LIB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.

- (h) Car sales lot, as permitted in the HB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (i) Laundry or dry cleaning plant, as permitted in the HB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (j) Mortuary or funeral home, as permitted in the HB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (k) Outdoor storage of building materials or products of manufacturing uses permitted in the Township, as permitted in the HB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (l) Automobile car wash, as permitted in the HB District: Zone I – Prohibited; Zone II – Permitted only by Special Exception.
- (m) Hazardous material storage, processing and disposal facilities, as permitted in the LIB District: Zone I – Prohibited; Zone II – Prohibited.
  - i. To the extent otherwise permitted or regulated by Federal, Commonwealth and/or Berks County statutes and regulations, the owners and/or occupiers of parcels which are primarily utilized for the purpose of single or multi-family residential dwellings are permitted to utilize and store fuels, hazardous chemicals, pesticides, fertilizers, inflammable liquids and gases, and toxic and regulated substances in such quantities and in such manner as is associated with normal consumer, household use, and such limited utilization shall not be deemed a hazardous material for the purposes of this Section.

E. Nonconforming Uses.

- (1) In addition to the Nonconforming Uses, Structures and Buildings provisions of Section 27-1601 of this Ordinance, uses of parcels in existence on the date of enactment of this Section which are listed in Section 27-1702.D.2 shall be deemed to be “nonconforming uses” of land. Such nonconforming uses may be continued provided that:
  - (a) Such nonconforming use is and remains otherwise lawful and in compliance with all Federal, Commonwealth and Berks County environmental, pollution control, hazardous substance and drinking water laws and regulations;
  - (b) Such nonconforming use has not been and is not discontinued for a

period of twelve (12) consecutive months;

- (c) Such nonconforming use is not, after the date of enactment of this Section, materially altered, changed or expanded, except to the extent justified by a strict showing of commercial necessity for such alteration, change or expansion presented to the Zoning Hearing Board, and then only to the extent permitted by a grant of special exception from the Zoning Hearing Board under the provisions of Section 27-2007.B., and only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming;
  - (d) The record owner of the parcel on which such nonconforming use is located is in compliance with Section 27-1702.D, regarding reporting requirements; and,
  - (e) Such nonconforming use is not an actual source of groundwater contamination.
- (2) A use listed in Section 27-1702.D shall be deemed to be new or materially altered, changed or expanded if:
- (a) The land use which constitutes the use was not previously present and conducted upon the parcel in question;
  - (b) The production and/or storage capacity of the use is increased;
  - (c) The types of any substances which give rise to the use are changed;
  - (d) The number of types of any substances which give rise to the use is increased; and/or,
  - (e) The quantity of any substances which give rise to the use is materially increased.
- (3) Following the date of enactment of this Part, uses listed in Section 27-1702.D.2 which are new or which constitute material changes, alterations or expansions of nonconforming uses shall comply with the provisions of Section 27-1702.D. Any such use which is permitted subject to the granting of a Special Exception in accordance with the terms of this Part shall not be deemed to be a nonconforming use of land provided that:
- (a) Such nonconforming use is not, after the date of enactment of this Part, materially altered, changed or expanded;
  - (b) The record owner of the parcel on which such nonconforming use is located is in compliance with Section 27-1702.F. regarding reporting requirements; and,

- (c) Such nonconforming use is not an actual source of groundwater contamination.

F. Reporting Requirements. The record owner of any parcel with a use subject to the provisions of Section 27-1702.D.2 shall submit, or cause to be submitted, to Oley Township, the following reports and information in the manner prescribed:

- (1) Copies of all Federal, Commonwealth and Berks County operational approvals, certificates, permits and applications, on-going environmental reports and monitoring results relating to environmental, pollution control, hazardous substance and drinking water laws and regulations pertaining to such lot or tract of land, as and when required to be submitted to Federal, Commonwealth and Berks County governmental authorities;
- (2) In the event that any contaminants and/or substances regulated under Federal, State or State environmental, pollution control, hazardous substance and drinking water laws and regulations are released on or from any lot or tract of land within the Well Head Protection Area, copies of any and all notices, reports and documents which such owner filed, or caused to be filed, with any Federal, Commonwealth and/or Berks County governmental authorities which provide notice of or relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities; and,
- (3) Copies of all notices, orders, rules, decisions, recommendations, enforcement actions and similar documentation, as and when received by or on behalf of such record owner or the occupant of any such lot or tract of land from any Federal, Commonwealth or Berks County governmental authority in connection with the enforcement of environmental, pollution control, hazardous substance and drinking water laws and regulations.

G. Enforcement – Additional Powers. In addition to enforcement provisions of Part 19, for the purpose of preventing violations and enforcing the provisions of this Section, the Township, or its Zoning Officer, may seek summary criminal actions. In addition, the Zoning Officer may issue cease and desist orders whenever such Officer becomes aware of violations of this Section.

H. Savings Clause. This Section shall not affect any act done or any offense committed prior to its effective date, nor affect any action to enforce any prior Ordinance or to punish any offense against a prior Ordinance.

*(Ord. 2013-362, 10/14/2013, §17)*

**PART 18****OPEN SPACE DESIGN STANDARDS****§27-1801. Open Space Design Option.****A. Purpose.** Among the objectives of this Part are:

- (1) To provide options for landowners to minimize impacts on sensitive environmental resources, reduce disturbance of natural and cultural features and conserve open land, including active farmland, by setting them aside from development.
- (2) To facilitate the provisions of a variety of housing types within a reasonable density framework.
- (3) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utilities and the amount of paving and impervious surface required for residential development.
- (4) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space and with strong neighborhood identity.
- (5) To provide flexible standards for addressing varying circumstances and interests of individual landowners and the unique characteristics of their properties.

**B. General Regulations.**

- (1) Any tract of land in the RA– Residential District with a net lot area of twenty (20) acres or greater shall be eligible for use of these special development provisions in accordance with the standards established by this Section.
- (2) The tract(s) of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tracts, and the proposed development shall be designed as a single project and shall be served by public water and public sanitary sewer facilities.
- (3) Permitted principal residential uses include: single-family detached dwelling, single-family semidetached dwelling, townhouse, apartment house or group of apartment houses. Customary residential accessory uses also shall be permitted.
- (4) The Plan for the proposed development shall comply with all applicable provisions of this Chapter and Township Subdivision Ordinances (Chapter

22), and shall be subject to review by the Planning Commission and approval by the Board of Supervisors.

**C. Density, Area and Bulk Regulations.**

- (1) **Minimum Restricted Open Space.** The minimum restricted open space shall encompass an area of land equal to that established by the following calculation: the gross tract area less fifty (50) percent of the net lot area of the tract.
- (2) **Permitted Density Calculation.**
  - (a) The maximum permissible number of lots or dwelling units on any tract utilizing the cluster development option shall be calculated by multiplying the net lot area of the tract (in acres) by three. The product of any such calculation shall be rounded to the nearest whole number; a fraction equal to 0.5 or greater shall be rounded up.
  - (b) The maximum number of units calculated under the provisions herein may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria and regulations herein.
- (3) **Residential Area and Bulk Regulations.**
  - (a) In the case of a single-family detached dwelling, the minimum lot area per dwelling shall be not less than 10,000 square feet.
  - (b) **Minimum Lot Width:**
    - i. Eighty (80) feet for every single-family detached dwelling.
    - ii. Forty (40) feet for every single-family semi-detached dwelling.
    - iii. Eighteen (18) feet for every townhouse dwelling.
    - iv. One hundred (100) feet for every apartment house or group of apartment houses on a lot.
  - (c) **Minimum Tract Perimeter Yard Setbacks:** Any yard abutting the pre-existing perimeter of the tract shall comply with the conventional setbacks set forth in the RA - Residential District, notwithstanding the provisions set forth herein.
  - (d) **Minimum Front Yard Setback:** twenty-five (25) feet.
  - (e) **Minimum Rear Yard Setback:** fifty (50) feet.

- (f) Minimum Side Yard Setback: fifteen (15) feet.
- (g) Maximum Lot Coverage: thirty-five (35) percent.
- (h) Maximum Building Coverage: twenty-five (25) percent.
- (i) Maximum Building Height: thirty-five (35) feet. In addition, no building shall exceed three stories in height.
- (j) In the case of a group of apartment houses on a single lot, the distance at the closest point between any two buildings or groups of buildings shall be as follows:
  - i. Between the front or rear of one building and the front or rear of another building - not less than forty (40) feet.
  - ii. Between the front and rear of one building and the end of another building - not less than thirty (30) feet.
  - iii. Between the end of one building and the end of another building - not less than twenty (20) feet.
  - iv. Between any part of any two buildings - except as hereinbefore provided, not less than twenty (20) feet.

For the purpose of this subsection, the “end” of a building shall be a wall, other than a front wall or rear wall, not longer than fifty (50) feet. Any other wall other than a front wall shall be considered a rear wall insofar as the distance regulations of this Section are considered. Court dimensions shall be governed by the same requirements applying to the fronts and rears of buildings.
- (k) The number of townhouses in any continuous grouping shall not exceed six.
- (l) Each use shall comply with the provisions of §§27-1609, 27-1610 and 27-1612 relating to parking, loading, access and highway frontage development.

D. **Open Space Resource Protection.** The location of proposed open space shall take into consideration and incorporate the following natural and cultural resources to the fullest extent practicable:

- (1) Stream channels, floodplains, wet soils, swales, springs and other lowland areas, including adjacent buffer areas required to ensure their protection.
- (2) Significant natural areas of species listed as endangered, threatened or of

special concern, such as those listed in the Statewide Natural Diversity Inventory.

- (3) Steep Slopes, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
- (4) Healthy Woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, Wetlands and wildlife habitats.
- (5) Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
- (6) Hedgerows, groups of trees, large individual trees of botanic significance, and other vegetation features representing the site's rural past.
- (7) Class I, II and III agricultural soils as defined by the USDA Natural Resource Conservation Service.
- (8) Historic structures and sites.
- (9) Visually prominent topographic features, such as knolls, hilltops and ridges, and scenic view sheds as seen from public roads (particularly those with historic features).
- (10) Existing trails connecting the tract to other locations in the Township.

**E. Open Space Designation and Management Standards.**

- (1) Open Space Designation and Use.
  - (a) The location and layout of restricted open space shall be configured so as to serve residents adequately and conveniently, and to promote adherence to resource protection standards set forth in Subsection D above, and shall further conform to the following conditions:
    - i. No portion of the required minimum restricted open space area shall also be calculated as part of any required yard or lot area.
    - ii. No portion of the designated restricted open space shall be measured as contributing to the required minimum restricted open space area where it extends less than seventy-five (75) feet in the narrowest dimension at any point.
  - (b) Areas designated for open space purposes, regardless of ownership and notwithstanding the minimum standards for measurement of

open space set forth above, may be used for any of the following:

- i. Conservation of open land in its natural state (e.g., Woodland, fallow field or managed meadow).
- ii. Agricultural and horticultural uses, including raising crops or livestock and wholesale nurseries.
- iii. Forestry and timber harvesting, if conducted in compliance with the applicable standards set forth in this Ordinance.
- iv. Public, common or private green, park or outdoor recreation area. Commercial recreational use(s) may be permitted where approved as a conditional use where the Board of Supervisors is satisfied that such use(s) are consistent with the purposes of this Chapter.
- v. Golf courses comprising no more than seventy (70) of the minimum restricted open space.
- vi. Stormwater management facilities, water supply facilities and sewage treatment and disposal facilities to the extent that it is not practicable to locate such facilities on individual lots. The placement of stormwater management, water and sewer facilities in open space areas shall be subject to all applicable regulations, and shall be permitted only where the Board of Supervisors is satisfied that adequate provision(s) for the long-term management and maintenance of such facilities are guaranteed and that the placement of such systems in open space areas does not significantly compromise compliance with all other applicable standards for the designation, use and management of open space.
- vii. Where water, sewer, or stormwater management facilities are located within restricted open space, easements satisfactory to the Board of Supervisors shall be established to require and enable the maintenance of such facilities by the appropriate parties.
- viii. Easements for drainage, access, utilities, sewer or water lines, or other public uses. Above ground utility and rights-of-way may traverse open space and conservation areas, but shall not count towards the minimum required open space.
- ix. Structures principally used for any of the above permitted open space uses, subject to compliance with any applicable limitations on measurement of minimum restricted open space.



- (c) Open space shall be interconnected with open space areas on abutting parcels wherever possible to promote the establishment of an interconnected and continuous network of open space, and shall include, where appropriate, provisions for pedestrian pathways for general public use to create linked systems within the Township.
- (d) As a condition of approval, the Township may require that open space areas be provided with sufficient perimeter parking, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle and maintenance and vehicle traffic, and containing appropriate access improvements.
- (e) Open space shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a Landscape Plan to protect open space resources.

(2) Standards For Ownership of Restricted Open Space.

Except to provide for permitted open space uses, required open space shall be restricted from further subdivision or development by deed restriction, conservation easement or other agreement in a form acceptable to the Township and duly recorded in the Office of the Recorder of Deeds of Berks County. Subject to such permanent restrictions and the approval of the Board of Supervisors, restricted open space land in any conservation design may be owned by a homeowners or condominium association, the Township, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership.

- (a) Offer of Dedication. The Township may, but shall not be required to, accept dedication in the form of fee simple ownership of restricted open space land. Where the Township accepts dedication of restricted open space land that contains improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen (15) percent of the actual cost of installation of said improvements.
- (b) Homeowners Association. The restricted open space land and associated facilities may be held in common ownership by a Homeowners Association. The Association shall be formed and operated under the following provisions:
  - i. The developer shall provide a description of the Association, including its Bylaws and proposed means of maintaining the open space. The developer shall further provide satisfactory

proof of adoption of the Association Bylaws and copy of all declaration(s) of covenants, easements, restrictions or similar document(s) regulating the use and maintenance of the property.

- ii. The Association shall be organized by the developer and operated with financial subsidization by the developer, before the sale of any lots within the development.
- iii. Membership in the Association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the Association from developer to homeowners shall be identified.
- iv. The Association shall be responsible for maintenance and insurance on common open space land and any permitted improvements thereon, enforceable by liens placed by the Homeowners Association. The Township has the right, but not the obligation, to enforce maintenance of common open space land, and may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the lots subject to membership in the Homeowners Association and/or the open space to collect unpaid taxes.
- v. The members of the Association shall share equitably the costs of maintaining and developing such common land. Shares shall be defined within the Association declaration and Bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).
- vi. In the event of a proposed transfer, within the methods here permitted, of common open space land by the Homeowners Association, or of the assumption of maintenance of such land by the Township, notice of such action shall be given to all property owners within the development.
- vii. The Association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space land.
- viii. The Homeowners Association may lease open space lands to any other qualified person or corporation for operation and maintenance of such lands, but such a lease agreement shall provide:

- 1) That the residents of the development shall, at all times, have access to the open space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year when the fields are fallow);
  - 2) That the open space land to be leased shall be maintained for the purposes set forth in this Ordinance; and,
  - 3) 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, at the election of the developer and/or Homeowners Association, as the case may be.
- ix. The lease shall be subject to the approval of the Board of Supervisors, 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 Berks County within thirty (30) days of their execution, and a copy of the recorded Lease shall be filed with the Secretary of the Township.
- x. Homeowners Association documentation demonstrating compliance with the provisions herein shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission, applicant shall provide draft Homeowners Association documentation with sufficient detail to demonstrate feasible compliance with this Section.
- xi. All applicable Homeowners Association documentation shall be reviewed and approved by the Township Solicitor, and shall be recorded in the Office of the Berks County Recorder of Deeds at the time of recording of Final Plans and prior to issuance of any building permit.
- xii. Any costs accrued on the part of the Township in regard to the administration, review or approval of any required activities of the Homeowners Association shall be reimbursed by the Association within ten (10) days after written demand by the Township. Upon failure of the Association to pay such costs by the time required, there shall be added thereto interest at the rate of fifteen (15) percent per annum, as well as all costs incurred by the Township in collection thereof. All such costs, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the Association and shall apply, pro rata, against all lot owners

who are members of the Association, in addition to applying to any affected open space.

- (c) **Condominiums.** The restricted open space land and associated facilities may be held in common through the use of condominium agreement(s), approved by the Board of Supervisors. Such agreement shall be in conformance with the Uniform Condominium Act of 1980. All common open space land shall be held as “common elements” or “limited common elements”. To the degree applicable, condominium agreement(s) shall comply with the provisions of Section 1801.E.2.b above, set forth for Homeowners Associations. Condominium agreement(s) shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission, applicant shall provide draft condominium agreement(s) with sufficient detail to demonstrate compliance with this Section.
- (d) **Dedication of Easements.** The Township may, but shall not be required to, accept easements for public use of any portion or portions of restricted open space land, title of which is to remain in common ownership by condominium or homeowners association, as applicable.
- (e) **Transfer of Easements to a Private Conservation Organization.** With the approval of the Township, an owner may transfer easements to a private, nonprofit, organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:
  - i. The organization is acceptable to the Board of Supervisors, and is a bona fide conservation organization with perpetual existence;
  - ii. The conveyance contains appropriate provision for proper reverter or retransfer, subject to the approval of the Township in the event that the organization becomes unwilling or unable to continue carrying out its functions; and,
  - iii. A maintenance agreement acceptable to the Board of Supervisors is entered into by the applicant and the private conservation organization.
- (f) **Private Ownership of Restricted Open Space.**
  - i. Restricted open space may be retained in ownership by the applicant, or may be transferred to other private parties subject to compliance with all standards and criteria for restricted open space herein.

- ii. All or portions of the designated restricted open space, where permitted by the Board of Supervisors, may be included within or divided among one or more of the individual lots. Where deemed appropriate, the Board of Supervisors may require that responsibility for maintenance of restricted open space be conferred upon and/or divided among the owners of one or more individual lots.
- (3) Maintenance of Open Space and Common Facilities. Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open space shall be borne by the property owner, condominium association, homeowners association or conservation organization as outlined below.
  - (a) Required Open Space Management Plan. The applicant shall provide a Plan for the long-term management of the restricted open space which is to be created as part of the development, including maintenance and management of any wastewater disposal, water supply, stormwater management or any other common facilities.
    - i. Open Space Management Plan Information. Such a Plan shall include a narrative discussion of the following items:
      - 1) The manner in which the restricted open space and any facilities included therein will be owned and by whom it will be managed and maintained;
      - 2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the restricted open space, including Conservation Plan(s) approved by the Berks County Conservation District where applicable;
      - 3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
      - 4) The nature of public or private access that is planned for the restricted open space; and,
      - 5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.
    - ii. At the time of Preliminary Plan submission, the applicant shall provide a draft Open Space Management Plan with sufficient detail to demonstrate feasible compliance with the provisions required under this Section.

- iii. The Board of Supervisors may require that the Management Plan be recorded with the Final Subdivision and Land Development Plans, in the Office of the Recorder of Deeds of Berks County.
- iv. The Board may require, as a condition of subdivision and/or land development approval, that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved Management Plan.
- v. In order to allow for the changing needs inherent in the perpetual management of land, the Management Plan shall contain a provision to the effect that it may be changed by written application to the Board of Supervisors. Approval of such application by the Board shall not be unreasonably withheld or delayed, so long as:
  - 1) The proposed change is feasible, is consistent with the purposes of preservation of open space set forth in this Section and with the approved Subdivision and Land Development Plans; and,
  - 2) The Plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.

(b) Provisions for Maintenance of Restricted Open Space.

- i. In the event that a homeowners or condominium association, any successor organization, or any other owner of the open space or other entity responsible for maintenance of any open space or common facilities, shall, at any time after establishment of a development containing open space lands or common facilities, fail to maintain such land or facilities in reasonable order and condition in accordance with the approved Development Plan, the Open Space Management Plan and/or association or condominium documents as applicable, the Township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space lands or common facilities in reasonable order and condition.
- ii. Failure on the part of the homeowners or condominium association, any successor organization, or any other owner of the open space or other entity responsible for maintenance of any open space or common facilities to adequately maintain the

open space land or common facilities in reasonable order and condition, shall constitute a violation of this Ordinance. The Township is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.

- iii. Upon default by any homeowners or condominium association, any successor organization, or any other owner of the open space or other entity responsible for maintenance of any open space or common facilities, where such maintenance is required under the terms of the Open Space Management Plan, homeowners association or condominium documents, any Subdivision and/or Land Development Plan for the property, the zoning approval for the property, or under any applicable requirements of any Township ordinances, permits or approvals, or where such maintenance is otherwise necessary to abate a nuisance, emergency, hazard or other condition threatening persons or property or the public health, safety or welfare, the Township may, but shall not be obligated to, take the following actions:
  - 1) Upon thirty (30) days advance written notice to the person, association or entity responsible for such maintenance (or any such lesser period as may be specified in the notice in instances of emergency) and the failure of the responsible individual, entity or association within such 30 day period (or such lesser period in the event of an emergency) to perform the necessary maintenance and otherwise remedy the condition set forth in the Township's notice, to enter upon the open space, accessing the same through any other lands of such entity, association or individual as may be necessary, to perform such maintenance and take any other action necessary to correct the condition provided in the Township's notice.
  - 2) Any and all costs incurred by the Township in connection with such notice and maintenance shall be paid by the responsible individual, entity or association within ten (10) days after written demand by the Township. Upon failure of the responsible entity, association or individual to pay such costs by the time required, there shall be added thereto interest at the rate of fifteen (15) percent per annum, as well as all costs incurred by the Township in collection thereof.

- a) All such costs of maintenance, remediation, notices and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the responsible entity, individual or association.
  - b) Such lien shall extend to all property of such individual, entity or association within the development containing the affected open space.
  - c) In the case of an association, such lien shall apply, pro rata, against all lot owners who are members of the association, in addition to applying to the affected open space.
- (4) Open Space Performance Guarantees. Where intended as common or public amenities, all landscape improvements, plantings, accessways and recreational facilities within designated open space areas shall be provided by the developer. A performance bond or other security acceptable to the Township shall be required to cover costs of installation of such improvements in the open space area. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements by the Oley Township Subdivision and Land Development Ordinance [Chapter 22].

*(Ord. 2013-362, 10/14/2013, §18)*



**PART 19****SIGNS****§27-1901. Purpose.**

- A. In addition to the statements included in the Community Development Objectives of §27-102, it is the purpose of this Part to provide for the regulations of signs in the Township as a proper exercise of the municipal police power to protect the public health, safety and general welfare in accordance with the following objectives:
- (1) To promote safety, comfort and well-being of users of streets, roads and highways in the Township.
  - (2) To control the size, locations and illumination of signs in the Township to reduce hazards to pedestrian and vehicular traffic.
  - (3) To encourage signs which are well designed and pleasing in appearance, and to provide latitude for variety in order to enhance the economic value as well as character of properties within the Township.
  - (4) To establish standards designed to encourage signs that are compatible with their surroundings, appropriate to the type of activity to which they pertain, expressive of the identity of individual proprietors, and legible in the circumstances in which they are seen; and to prohibit the erection of signs that do not meet these criteria and which are incompatible with the agricultural landscape, historic and rural character of the Township.
  - (5) To prohibit the construction of and require the removal of signs which constitute a hazard or a blighting influence.
  - (6) To preserve or enhance the rural and historic character of the Township by requiring new and replacement signage which is:
    - (a) Creative and distinctive.
    - (b) Compatible with the surroundings.
    - (c) Appropriate to the type of activity to which it pertains.
    - (d) Expressive of the identity of individual proprietors or of the community as a whole.
    - (e) Appropriately sized in its context, so as to be easily readable.

**§27-1902. Definitions.**

- A. For the purpose of this Part 19, the following words, terms and phrases shall have the meaning herein indicated:
- (1) **Advertising Sign** – Any sign which directs attention to a business, commodity, service or entertainment conducted, sold, offered elsewhere than upon the premises where the sign is displayed.
  - (2) **“Back-Lit” Illuminated Sign** – A sign designed to produce artificial light directly or indirectly through LED, transparent or translucent material from a source of light or luminous components within such sign.
  - (3) **Bulletin Board or Directory Sign** – A permanent or portable sign with movable letters, words or numerals, indicating the names of persons associated with events, products, services offered upon the premises with which such sign is maintained.
  - (4) **Business Sign** – A sign which directs attention to a business, profession, event, activity, exhibit, entertainment or industry conducted on the premises to the products sold, manufactured or assembled upon the same premises on which it is displayed.
  - (5) **Directional Sign** – A sign containing directional information locating public places owned or operated by Federal, State, local governments or their agencies: public or privately owned natural phenomena, historical, cultural, scientific, education and religious sites; and areas of natural scenic beauty that are naturally suited for outdoor recreation.
  - (6) **Flashing Signs** – Any illuminated sign which the artificial light is not maintained stationary and/or constant in intensity at all times when such sign is in use and which exhibits changes in light, color direction or animation, including, but not limited to, moving, rotating, flashing and oscillating, shuttered or other similar sign.
  - (7) **Flush Mounted Sign** – A sign attached to and mounted parallel to the face of a building or structure, or where architectural features (covered entryways, awnings or other building elements except where otherwise prohibited) are clearly designed to accommodate a sign mounted parallel to the building face.
  - (8) **Freestanding Sign** – A sign supported by one or more poles, columns or supports placed in or on the ground and not attached to any building or structure.
  - (9) **HARB** – Historic Architectural Review Board.
  - (10) **Historical Marker Sign** – A marker or tablet commemorating a historical

site or event and erected by the Pennsylvania Historical and Museum Commission or other authorized historical society or commission.

- (11) **Home Occupation Sign** – Signs which identify or advertise home occupations.
- (12) **Identification Sign** – A sign located on the premises other than a bulletin board or nameplate sign, indicating the name of a development, building or the management thereof.
- (13) **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.
- (14) **Incidental Sign** – A small sign, emblem or decal less than two square feet per side in area informing the public of goods, facilities or services available on the premises; e.g., a credit card sign, directional (entrance, exit) or a sign indicating hours of business.
- (15) **Nameplate Sign** – A sign which designates the name and address of an occupant or group of occupants.
- (16) **Off-Premises Sign** – A sign which directs attention to a business, profession, commodity, service or entertainment that is not conducted, sold or offered on the same premises.
- (17) **Official Traffic Sign** – Signs erected by the Commonwealth of Pennsylvania, Department of Transportation, or the Township of Oley which are designed to regulate traffic, describe road conditions or supply directions.
- (18) **On-Premises Sign** – A sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered on the same premises.
- (19) **Outdoor Advertising Billboard** – A sign with a square footage on one side of between sixty (60) square feet and one hundred sixty (160) square feet, permanently affixed to the ground and intended to direct attention to a business, commodity, service or entertainment not conducted, sold or offered upon the premises where such sign is located.
- (20) **Permanent Sign** – Any sign which is not a temporary sign.
- (21) **Political Sign** – A sign intended solely to promote the election of a political candidate.
- (22) **Portable Sign** – Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

- (23) **Projecting Sign** – A display sign which is attached directly to any building, wall or other structure, and which extends more than twelve (12) inches from the face of the wall.
- (24) **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.
- (25) **Public Service and Information Signs** – A sign advertising the availability of restrooms, telephones or similar public conveniences.
- (26) **Real Estate Sign** – A temporary sign indicating the sale, rental or lease of the premises on which the sign is located.
- (27) **Sign** – See Section 27-202.
- (28) **Sign Area** – The face of a sign, including all lettering, wording, designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including the frame, but not including any supporting framework and bracing. Where a sign consists of individual letters, numbers, characters or symbols attached to a building, the area of the sign shall be considered to include a square or rectangular pattern as drawn at the outer limits of the letters, words or representations.
- (29) **Temporary Sign** – A sign notifying of or advertising a special event on the premises, such as festivals, concerts or exhibits, the sale of farm products, signs of contractors, architects, mechanics and artisans.
- (30) **Vehicular Sign** – A sign which is affixed to a vehicle in such a manner that the carrying of such sign or signs is no longer incidental to the vehicle's primary purpose, but becomes a primary purpose in itself.
- (31) **Window Sign** – A sign affixed to or visible through a window of a building.

**§27-1903. Signs in AP, RU, RA, RMH, AQRC and HV Districts.**

- A. In AP, RU, RA, RMH, AQRC and HV Districts, the following types of signs and no other shall be permitted:
  - (1) Official Traffic Signs.
  - (2) Home Occupation, Professional or Nameplate Signs provided that:
    - (a) The size of any such sign shall not exceed two (2) square feet.
    - (b) Not more than (1) such sign shall be erected for each permitted use or dwelling unit.

- (3) Identification signs for subdivisions, planned residential developments, multi-family development, mobile home parks, schools, churches, hospitals or similar institutions and for clubs, lodges, farms, estates or similar uses provided that:
- (a) The size of any such sign shall not exceed eight (8) square feet.
  - (b) Not more than one (1) such sign shall be placed at each vehicular entrance to a property from a public road.
  - (c) Within each mobile home park, not more than two (2) signs indicating the office and the location of supportive facilities, each of which shall not exceed three (3) square feet in size.
  - (d) Such signs shall be in accordance with the sign plan submitted and approved per the Township's subdivision and land development plan review process. If not part of or applicable to a sign plan, such signs shall require the Board of Supervisors' approval prior to the issuance of a sign permit. Identification signs for farms and estates shall be exempt from this sign plan and approval requirement.
  - (e) Such signs shall comply with the following standards:
    - i. All signs shall be located outside the road right-of-way.
    - ii. Where practical, signs shall be connected to existing or new hedgerows, fences, stone walls or other perimeter landscaping or fencing to create a unified and consistent development design.
    - iii. Such signs shall be maintained by the property owner or homeowners' association, where applicable.
- (4) Temporary Signs provided that:
- (a) Except for Real Estate Signs, the size of such sign shall not exceed nine (9) square feet.
  - (b) Signs of contractors, architects, mechanics and artisans shall be removed within five (5) days after the completion of work.
  - (c) Signs advertising the sale of nursery or agriculture products may be a freestanding sign or wall sign, but not both; and shall be removed within one hundred eighty (180) days of installation. There shall be a limit of four (4) signs per year for each property.

- (d) Real Estate Signs, including on-site signs advertising the sale or rental of premises, provided that:
  - i. Any sign larger than three (3) square feet requires approval of the HARB.
  - ii. Not more than one (1) such sign shall be placed on the premises, unless such premises fronts on more than one (1) street or road, in which case one (1) such sign may be placed on each road frontage.
  - iii. All such signs shall be removed within five (5) days of the sale or rental of the premises.
- (5) Signs advertising a lawful, nonconforming use provided that:
  - (a) The area on one side of any such sign shall not exceed twelve (12) square feet.
  - (b) Such sign shall be erected only on the premises on which such nonconforming use is located.
  - (c) Such sign shall not be lighted.
- (6) Temporary political campaign signs provided that:
  - (a) The size of the sign shall not exceed nine (9) square feet on one side.
  - (b) No sign shall be placed earlier than thirty (30) days prior to the relevant election.
  - (c) All signs shall be removed no later than five (5) days following such election.
  - (d) Signs shall not be placed within the street right-of-way, and shall be located so as not to obstruct visibility from or impede the use of any street, driveway and sidewalk, bikeway, parking area, path or trail.
  - (e) No such sign shall be erected or maintained on a tree or utility pole.
- (7) Historical or memorial markers or tablets provided that:
  - (a) The size of such sign shall not exceed ten (10) square feet.
  - (b) Not more than one (1) such sign shall be placed on the premises unless such premises fronts on more than one (1) road or street, in which case one (1) such sign may be placed on each frontage.

- (8) Back-Lit Illuminated Signs and Off-Premises Signs shall be prohibited.
- (9) Illuminated signs of any type shall be prohibited in the AP, RU, RA, HV and RMH zones.

**§27-1904. Signs in V, RV, LB, HB, LIB and I Districts.**

A. Signs may be erected and maintained as follows:

- (1) All signs permitted under Section 27-1903.
- (2) A sign advertising a use not conducted on the premises or goods not sold on the premises shall not be permitted, except for directions signs and billboards.
- (3) Outdoor Advertising Billboards are permitted in the HB District only, and may be placed at a rate of no greater than one (1) per mile, including both sides of the road.
- (4) The total area of one (1) single sign may not exceed thirty-two (32) square feet on one side, except billboards, which shall have advertising on only one (1) side, and the total area of which may not exceed one hundred sixty (160) square feet in size. No sign in the Village (V) District shall exceed nine (9) square feet.
- (5) The total area on one (1) side of all signs placed on or facing any one street frontage of any one (1) premise shall not exceed sixty-four (64) square feet, except in the case of a building housing more than one (1) commercial or industrial use.
- (6) The area on one (1) side of a directional sign shall not exceed four (4) square feet.
- (7) No sign shall be located within any street right-of-way or within seven (7) feet of the cart way, whichever is the greater distance.
- (8) No more than one (1) freestanding sign shall be allowed on any one (1) property, and its height shall not exceed ten (10) feet.
- (9) In case of a building housing more than one (1) commercial or industrial use, one (1) permanent identifying sign for the building, the area on one side which shall not exceed thirty-five (35) square feet may be erected. In addition, for each commercial or industrial use located within that building, one (1) sign, the area of which shall not exceed twenty (20) square feet, may be attached to that portion of the building housing the use.

- (10) Business, commercial or industrial signs identifying the written name and/or the type of business and/or any trademark of an article for sale or rent on the premises or otherwise calling attention to a use conducted on the premises provided that:
  - (a) Where such business or use is seasonal and temporary (e.g., sale of Christmas trees, flea market, yard sale, etc.) any sign shall be removed within five (5) days of completion of the event.
  - (b) For a single, freestanding principal use of a commercial or industrial lot, there shall be not more than one (1) sign (regardless of construction type) for each Public Street on which the property fronts.
  - (c) The total area of any freestanding, projecting or wall sign for an individual freestanding use shall not exceed an area equal to ten percent (10%) of the total square footage of the building parallel to, and facing, any particular street or a total of twenty-five (25) square feet, whichever is less. The sign area for each street frontage shall be computed separately, and any allowable sign area not used on one (1) frontage may not be used on another street frontage.

**§27-1905. General Sign Requirements.**

A. The following regulations shall apply to all Districts:

- (1) No sign shall be erected within any street right-of-way, except official traffic signs and similar regulatory notices or historical markers of a duly constituted governmental body.
- (2) No sign having a distracting effect on motorists on adjacent highways shall be permitted, including flashing signs and those which move, oscillate or rotate, and those which contain reflective elements which flutter or sparkle and convey the impression of movement.
- (3) No sign shall be erected so as to obstruct free and clear vision of any intersection, driveway, parking lot entrance or exit, or traffic control device.
- (4) No sign shall be erected which uses an artificial light or reflecting device which may be mistaken for a traffic signal or which contains red, green or amber illuminations.
- (5) No sign shall be erected or maintained so as to prevent free ingress and egress from any door, window or fire escape.
- (6) No sign shall be erected which emits smoke, visible vapors or particles, sound or odor.



- (7) No sign shall be erected containing information which implies that a property may be used for any purpose not permitted under the provisions of this Ordinance.
- (8) No Business Sign shall be located nearer to a residence or a Residential District line than permitted for buildings on the lot. If located nearer than fifty (50) feet and facing into a residence or an AP, RU, RA, RMH, or AQRC District, it shall be designed so as not to shine or reflect light upon such residence or District.
- (9) Except in the Highway Business District, no sign shall be illuminated except by concealed indirect lighting. Any illumination of signs in any District shall be shielded so that the source of light is not visible from any point off the lot on which the sign being illuminated is erected or from any adjacent vehicular access or street, and so that only the sign is illuminated.
- (10) Projecting, freestanding or wall signs shall have a minimum clearance of ten (10) feet from the finished grade of any sidewalk, or fourteen and one-half (14½) feet above any parking area or drive. Wall signs mounted flush to a building may be located less than ten (10) feet from the finished grade of any sidewalk, or fourteen and one-half (14½) feet above any parking area or drive.
- (11) No roof signs shall be permitted, and no part of any sign shall extend above the vertical building face of wall, such as the eaves line or the top of a parapet.
- (12) Except in the Highway Business District, all signs shall be made a harmonious part of the architectural design and character of the buildings located on the same lot and the District in which the sign is located, and subject to the approval of the HARB.
- (13) 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.
- (14) Public Service and Information signs shall be permitted in all Districts.
- (15) Non-commercial signs and decorations for an official or religious holiday are permitted; provided that they do not create traffic or fire hazards and are removed within five (5) days following the event. Such sign shall not exceed eight (8) square feet.
- (16) Prohibited Signs:
  - (a) Flashing signs, rotating or revolving signs, with the exception of barber poles.

- (b) Any suspended banner/sign which is either a pennant that blows in the wind or a temporary spinner that spins in the wind, except, when placed on a temporary basis (not to exceed thirty [30] days), when located inside a stadium, arena or temporary fairground or any other type of banner/sign which crosses a public road, street or on any private property; except for such signs which are approved by the Board of Supervisors to be of general benefit to the municipality or for public convenience, necessity or welfare.
  - (c) Signs which use the words “stop”, “look”, “danger” or any other word, symbol or character which attempts or appears to attempt to direct the movement of traffic, or which interferes with, imitates or resembles any official traffic sign, signal or device within seventy-five (75) feet of a public right-of-way, or within two hundred (200) feet of a traffic control device.
  - (d) Vulgar, indecent or obscene signs, being signs which are offensive to the senses and/or calculated to corrupt, may not be displayed in any manner.
  - (e) Signs shall not be posted, stapled or otherwise permanently attached to public utility poles or trees within a street right-of-way.
  - (f) Signs which contain include or are illuminated by any flashing, intermittent or moving light or lights.
- (17) The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which is incidental to the display itself. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols.

**§27-1906. Permits.**

- A. A permit shall be required for all signs allowed in any Zoning District, except for signs listed as exempt signs below. All permit applications shall contain the written consent of the owner on whose property the sign is to be erected. Except for those signs to be erected in the Highway Business District, all signs whether or not requiring a building permit shall be presented to the HARB for their recommendation of approval to the Board of Supervisors.
  - (1) No sign shall hereafter be erected, rebuilt, altered, relocated or enlarged until a permit is issued by the Zoning Officer for such purposes, except for signs listed below:

- (a) Temporary signs used by churches, synagogues, governmental bodies, schools or civic organizations.
  - (b) Temporary construction signs of three (3) square feet or less.
  - (c) Directional information signs of three (3) square feet or less.
  - (d) Holiday or special events decorations.
  - (e) Nameplates, house numbers, address signs.
  - (f) Political signs.
  - (g) Real estate signs.
  - (h) Window signs.
  - (i) Incidental signs.
  - (j) Temporary signs as permitted.
  - (k) Traffic control signs.
  - (l) Legal notice.
  - (m) A sign indicating the prohibition or control of fishing, hunting or trespassing; or signs indicating the private nature of a road, provided the area of the sign does not exceed four (4) square feet.
- (2) The fact that permits are not required for a sign does not exempt that sign from any of the provisions of this Subsection.
  - (3) Any sign to be erected in the Township that is not exempt under this Subsection shall require a permit. No such sign shall hereafter be erected, altered or the content changed (except on a directory sign) until a permit is issued by the Zoning Officer.
  - (4) No permit to erect a sign shall be issued until the required fee has been paid to the Zoning Officer, which fee shall be established from time to time by Resolution of the Board of Supervisors.
  - (5) Application for a sign permit shall be made in writing to the Zoning Officer and shall contain all information necessary for the Zoning Officer to determine whether the proposed sign, or the proposed alterations, conform to all the requirements of this Section. All applications for sign permits shall be accompanied by plans or diagrams in duplicate and to scale, showing the following:

- (a) Exact dimensions of the lot, including any right-of-way lines, or building upon which the sign is proposed to be erected.
- (b) Exact size, content, dimensions and location of the said sign on the lot or building, together with its type, construction, materials to be used and manner of installation.
- (c) Any other lawful information which may be required of the applicant by the Zoning Officer.
- (d) Permits shall be granted or refused within thirty (30) days from the date of application as per the Pennsylvania Municipal Planning Code.
- (e) No sign permit shall be issued unless there is conformance with the regulations of this Section; except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a variance.
- (f) After installation, the Zoning Officer shall inspect the sign to insure that the installation has conformed to the regulations set forth in the Section. All signs shall be subject to annual inspection.

**§27-1907. Standard Type of Construction of Permitted Sign.**

- A. In addition to all other applicable standards of this Section, the following standards shall apply to the respective types of sign construction specified:
  - (1) Freestanding Signs.
    - (a) Except as otherwise specified, one (1) freestanding sign is permitted per street upon which the property has direct frontage provided that a maximum of two (2) such signs shall be permitted as a right on any tract with a separation of at least one hundred fifty (150) feet.
    - (b) No freestanding sign shall project to a point nearer than seven (7) feet from the cart way, or the right-of-way line whichever is greater; where compliance with this standard would nonetheless create an obstruction of view, further setback may be required.
    - (c) Freestanding signs shall be located no closer to any adjacent public park, church, school or public playground than the minimum setback or separation distance required for any other adjacent structure or building, as regulated by this Section.
    - (d) No freestanding sign related to a commercial use may be located nearer to a residential lot line than the minimum setback distance required for other business or commercial structures. If located

nearer than fifty (50) feet and facing into a residential lot line, such sign shall be designed so as not to shine or reflect light into adjacent residences.

- (e) All poles or columns that support ground signs shall be made of metal or pressure treated timbers. All such poles or columns shall be embedded in the ground at least three (3) feet, six (6) inches, unless the Zoning Officer directs otherwise.
  - (f) The maximum height of any freestanding sign erected without the use of a pole, pylon or standard shall be three (3) feet, six (6) inches. A sign erected on a pole, pylon or standard shall not exceed a maximum height of ten (10) feet; and the minimum distances between the ground surface and the bottom of the sign face shall be four (4) feet.
- (2) Flush Mounted Signs.
- (a) Flush mounted signs shall not project more than twelve (12) inches from the building wall and must be so located that the lower edge is a minimum of ten (10) feet above grade in any case where projection from the wall is greater than three (3) inches.
  - (b) For a planned village shopping center, or other multi-tenant commercial building or property, more than one (1) sign shall be permitted per wall, except that the total area of all signs on one wall shall not exceed ten percent (10%) of the façade.
  - (c) Flush mounted signs may be erected upon a canopy or marquee if the structural strengths of such a canopy or marquee is sufficient to safely carry the additional load, and provided that such signs may not extend beyond the edges of said canopy or marquee or extend beyond otherwise prohibited areas.
  - (d) No flush mounted sign shall extend above the top of the wall upon which it is mounted or beyond the edges of same.
- (3) Projecting Signs.
- (a) Projecting signs shall be permitted only within the HB and I Districts.
  - (b) A projecting sign shall be so located upon the building that the lower edge is a minimum of ten (10) feet above grade. Projecting signs may project a maximum of four (4) feet from the building wall; provided, however, that no sign shall project to point nearer than five (5) feet from the edge of the paved roadway.
  - (c) No projecting sign shall extend above the top of the wall upon which it is mounted.

- (d) No more than one (1) projecting sign shall be permitted per premises.
- (4) Window Signs.
  - (a) More than one (1) window sign shall be permitted per building; provided that all window signs are temporary and do not exceed fifteen percent (15%) of the total glass area on the side of the building where they are placed.
  - (b) Grocery stores, food markets and pharmacies shall not exceed twenty percent (20%) of the total glass area covered by window signs.

**§27-1908. Removal of Signs/Enforcement.**

**A. Unsafe Sign.**

- (1) All signs shall be constructed of durable materials and kept in good condition and repair, safe from hazards, nuisances and collapse. When any sign becomes dilapidated, structurally unsafe or endangers the public safety, or the safety of a building or premises, the Township shall give written notice to the owner of the sign or the owner of the premises on which the sign is located that such sign be made safe or removed within thirty (30) days. Should the remedy not occur within this time frame, the Township shall remove the sign at the expense of the owner.
- (2) Where, in the opinion of the Zoning Officer, upon careful inspections, any sign as described in Paragraph A, above, constitutes an imminent hazard to public safety necessitating immediate action, he shall be empowered to take those measures he deems appropriate to secure, stabilize or remove such sign without the written notice to the owner of the premises otherwise required by that Section. In such cases, a lien shall be placed against the property on which such sign was situated in the amount of the costs incurred by the Township in removing the sign.
- (3) Failure of the Zoning Officer to remove, or require the removal of any unsafe sign as described in this Section shall create no liability upon, nor any cause of action against, the Zoning Officer or any other Township official or employee for damage or injury that may occur as a result of said sign.

**B. Abandoned Sign.**

- (1) Any sign which was erected for an occupant or business unrelated to the present occupant or business, or any sign which relates to a time or event inconsistent with the time limits established by the Section, shall be deemed to have been abandoned. An abandoned sign shall be removed by the owner of the sign or owner of the property within thirty (30) days of written

notification from the Zoning Officer.

- (2) If a use ceases for a period of six (6) months, signs advertising the ceased business, or businesses, must be removed by the owner of the property or the owner of the sign. Such signs shall be removed within thirty (30) days of written notice to the owner.
  - (3) The Township shall have the right to remove any temporary political campaign sign located on public property which is not removed within the time limit prescribed or where, in the opinion of the Zoning Officer, its continued presence would constitute a safety or visibility hazard to the public.
- C. **Illegal Sign.** Any sign installed or placed on public property or within any public right-of-way that is not in conformance with the requirements of this Section shall be forfeited to the public and subject to confiscation. In addition to other authorized remedies, the Township shall have the right to recover from the owner or person placing such a sign the full cost of removal and disposal of such sign.

*(Ord. 2013-362, 10/14/2013, §19)*

**PART 20****ZONING HEARING BOARD****§27-2001. Creation and Membership.**

- A. Creation. There is hereby created a Zoning Hearing Board. As used in this Part, unless expressly indicated otherwise, the term “Board” shall refer to the Zoning Hearing Board.
- B. Membership of Board.
- (1) The membership of the Board shall consist of three (3) residents of the Township appointed by Resolution by the Board of Supervisors. The terms of office of the Board members shall be three (3) years, and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township.
  - (2) The Board of Supervisors may appoint, by Resolution, at least one (1), but no more than three (3), residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 27-2002, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Chapter and as otherwise provided by law. Alternates shall hold no other office in the Township, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Board, but shall not be entitled to vote as a member of the Board, nor be compensated pursuant to Section 27-2003, unless designated as a voting alternate member pursuant to Section 27-2002.B.
  - (3) Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

**§27-2002. Organization of Board.**

- A. Election of Officers. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of



any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 27-2004.D.

- B. Use of Alternate Members. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter of case. Designation of an alternate pursuant to this Section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- C. Rules and Forms. The Board may make, alter and rescind rules and forms for its procedure, consistent with Ordinances of the Township and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.

### **§27-2003. Expenditures for Services.**

Within the limits of funds appropriated by the Board of Supervisors, the Board may employ contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors. Alternate members of the Board may receive compensation, as may be fixed by the Board of Supervisors, for the performance of their duties when designated as alternate members pursuant to Section 27-2002.B., but, in no case, shall such compensation exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

### **§27-2004. Hearings.**

- A. The Board shall conduct hearings and make decisions in accordance with the following requirements:
- (1) **Public Notice.** Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by Ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

- (2) Fees. The Board of Supervisors, by Resolution, may adopt, from time to time, reasonable fees with respect to hearings before the Board.
- (3) Date of Hearing. 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, in writing, or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief; provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application; provided, that the applicant is granted an equal number of additional hearings for rebuttal.
- (4) Conduction of Hearings. The hearings shall be conducted by the Board, or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- (5) Parties to the Hearing. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- (6) Powers of the Chairman of the Board. The Chairman or acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witness and the production of relevant documents and papers, including witness and document requested by the parties.
- (7) Representation By Counsel. The parties shall have the right to be represented by counsel, and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

- (8) Rules of Evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (9) Stenographic Record. The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- (10) Communication to Board. The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- (11) Written Decision. The Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of this act or of any chapter, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of 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 or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 27-2003.A. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection

shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- (12) Notification of Decision. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board, it shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**§27-2005. Jurisdiction.**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:
  - (1) Challenges to Any Land Use Ordinance. Substantive challenges to a validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to Section 27-2305 of this Chapter.
  - (2) Challenges to the Enactment or Adoption of Any Land Use Ordinance. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
  - (3) Appeals Concerning the Issuance of Permits and Orders. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - (4) Appeals Concerning the Administration of This Chapter and Floodplain Management Ordinance of Oley Township. Appeals from a determination by a Municipal Engineer or the Zoning Officer with reference to the administration of the Floodplain Management Ordinance [Chapter 8] of Oley.
  - (5) Variances. Applications for variances from the terms of this Chapter and Floodplain Management Ordinance [Chapter 8] or such provisions within a land use ordinance, pursuant to Section 27-2007.A.
  - (6) Special Exceptions. Applications for special exceptions under this Chapter or Floodplain Ordinance [Chapter 8] or such provisions within a land use ordinance, pursuant to Section 27-2007.B.
  - (7) Appeals Concerning Performance Density. Appeals from the determination of any officer or agency charged with the administration of any performance density provision of this Chapter.

- (8) Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code, as amended.
- (9) Appeals Concerning Sedimentation and Erosion Control and Stormwater Management.
  - (a) Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management, insofar as the same relate to development not involving Parts 4 through 16 applications.
  - (b) In exercising any of the above-mentioned functions, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination, including any order requiring an alleged violator to stop, cease and desist or discontinue and may make such order, requirement, decision or determination, including a stop order or orders to cease and desist as ought to be made.

**§27-2006. Judicial Remedies.**

Nothing contained in this Section shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

**§27-2007. Functions.**

A. Variances.

- (1) The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case.
  - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or District in which the property is located.

- (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (c) That such unnecessary hardship has not been created by the appellant.
  - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or District in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (2) The person applying for a variance shall introduce evidence at the hearing which will allow the Zoning Hearing Board to make the aforementioned determinations.
  - (3) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter.
  - (4) Application for variances from the requirements of this Chapter shall be made in writing to the Board on a form specified for such purpose, and shall be accompanied by the required filing fee and shall contain a plan or drawing of the property.
  - (5) If a building permit has been requested, the approved variance with any conditions imposed by the Board shall be attached to the application. Where the variance is approved prior to the application, then the approved variance with any conditions imposed by the Board shall be forwarded to the Zoning Officer.

B. Special Exception.

- (1) Where the Board of Supervisors, in this Chapter, has permitted special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria.
- (2) In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter.

- (3) No special exception shall be granted unless the Zoning Hearing Board shall determine that:
- (a) The proposed use does not impair the achievement of the Comprehensive Plan.
  - (b) The surrounding streets are sufficient to handle any expected increase in traffic generated by the proposed use.
  - (c) The proposed use will not adversely affect the public health, safety or general welfare.
  - (d) The required area, yard and bulk requirements and all other requirements of the applicable Zoning District are met.
  - (e) All requirements of Part 17, General Regulations, of this Chapter, are met.
  - (f) The proposed use is not incompatible with existing traffic conditions and the use of adjacent land.
  - (g) Services and utilities are available to adequately service the proposed use.
  - (h) That the proposed change will not have an adverse effect upon the logical and economic extension of public services and facilities, such as public water, sewer, police and fire protection and public schools.
- (4) Applications for those uses permitted by special exception in a particular Zoning District shall be made in writing to the Board on a form specified for such purpose, shall be accompanied by the required filing fee and shall contain a plan or drawing of the property.

**§27-2008. Appeals.**

- A. Parties Appellant Before the Board. Appeals from an action of the Zoning Officer or Municipal Engineer or challenges to this Chapter and the Zoning Map under Sections 27-2305.A. through 27-2305.D. and 27-2305.6 through I.(7), 27-1705(8) and 27-1705(9) maybe filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance or special exception may be filed with the Board by any landowner, equitable owner or any tenant with the permission of such landowner.
- B. Time Limitations.
- (1) Persons Aggrieved. No person shall be allowed to file any proceeding with

the Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

- (2) The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or the Zoning Map pursuant of Section 916.2 of the Pennsylvania Municipalities Planning Code shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative or preliminary approval.
  - (3) All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.
- C. Stay of Proceedings. Upon filing of any proceeding referred to in Section 27-2007.A., and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. The question of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.
- D. Appeals to Court. Appeals to court shall be in accordance with the procedures established in Article X of the Pennsylvania Municipalities Planning Code, as amended. Appeals to court shall be taken to the Court of Common Pleas of Berks County.
- E. Validity of Chapter and Procedural Questions. Questions of an alleged defect in the process of enactment or adoption of this Chapter or the Zoning Map shall be raised by an appeal taken directly from the action of the Board of Supervisors to the Common Pleas Court of Berks County, filed not later than thirty (30) days from the effective date of the Chapter or the Zoning Map.



F. Validity of Chapter - Substantive Questions.

- (1) Landowner Appeals. A landowner who, on substantive grounds, desires to challenge the validity of this Chapter or the Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, shall submit the challenge either to the Zoning Hearing Board for a report thereon or to the Board of Supervisors, together with a request for a curative amendment.
- (2) Appeals by Persons Aggrieved. Persons aggrieved by a use or development permitted on the land of another by this Chapter or the Zoning Map, or any provision thereof, who desire to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon.
- (3) The submission referred to in subsections (1) and (2) above shall be governed by the provisions of Section 916.1(c) of the Pennsylvania Municipalities Planning Code, as amended.
- (4) The Zoning Hearing Board or Board of Supervisors, as the case may be, shall commence its hearing within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.
- (5) Public notice of the hearing shall include notice that the validity of the ordinance or map is in question, and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.
- (6) The challenge shall be deemed denied when:
  - (a) The Zoning Hearing Board or Board of Supervisors, as the case may be, fails to commence the hearing within the time limits set forth in subsection (4) above.
  - (b) The Board of Supervisors notifies the landowner that it will not adopt the curative amendment.
  - (c) The Board of Supervisors adopt another curative amendment which is unacceptable to the landowner.
  - (d) The Zoning Hearing Board or Board of Supervisors, as the case may be, fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and the Township.
- (7) Where a curative amendment proposal is approved by the grant of a curative amendment application by the Township Supervisors pursuant to Section 909.1(b)(4) of the Pennsylvania Municipalities Planning Code, or a validity

challenge is sustained by the Zoning Hearing Board pursuant to Section 27-2305.A., or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two (2) years from the date of such approval to file an application for preliminary or tentative approval pursuant to Article V or VII of the Pennsylvania Municipalities Planning Code. Within the two (2) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinances or plan shall be appealed in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of the Pennsylvania Municipalities Planning Code, Section 508(4), shall apply. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any Subdivision or Land Development Ordinance [Chapter 22], the developer shall have one (1) year within which to file for a building permit. Within the one (1) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinances or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

*(Ord. 2013-362, 10/14/2013, §20)*

**PART 21****CONDITIONAL USE****§27-2101. Conditional Uses.**

- A. Conditional uses specified in this Chapter may be permitted by the Board of Supervisors, after public hearing, based upon the express standards and criteria set forth in this Chapter.
- B. Application For Conditional Use Approval.
- (1) An application for conditional use shall be in writing on the specified form and shall be submitted to the Township Secretary. Such applications shall include all information specified for a zoning permit application, and any other information necessary to allow the Board of Supervisors to determine if all the requirements of this Chapter have been met, including a Site Plan as stipulated below. An application shall not be considered complete unless accompanied by all required information and the appropriate filing fee as required by the Resolution of the Board of Supervisors.
  - (2) Site Plan. The application for conditional use shall be accompanied by a proposed site plan to include the following information:
    - (a) Site Plan shall be drawn to a scale of one (1) inch equals one hundred (100) feet.
    - (b) Location, dimensions, use, coverage, and height of proposed buildings and proposed improvements in relation to property and street lines.
    - (c) Dimensional features showing compliance with the applicable area, width, coverage, yard, and design standards as specified in the Township Zoning Ordinance.
    - (d) Location, dimension, and arrangements of proposed facilities including sidewalks, parking areas, site access, and interior circulation, off-street loading and unloading, and lighting for these areas.
    - (e) Location, dimensions, and arrangement of all areas devoted to open space, ground cover, trees, plantings, and recreation.
    - (f) Provisions for handling of stormwater drainage, treatment of disposal of sewage, and supply of water.
    - (g) A copy of the last recorded subdivision plan of which the property is part.

- (h) Locations and design of all on-site and off-site improvements related to access control and traffic capacity.
- C. The Board of Supervisors shall refer the application for conditional use to the Township Engineer, the Township Planning Commission, the Township Historical and Architectural Review Board (HARB) and/or the Township Zoning Officer, as relevant to the specific application, for review and comment; provided, however, that such referral shall not delay the public hearing or decision of the Supervisors.
- D. The Board of Supervisors shall schedule a public hearing on the application for conditional use within sixty (60) days after the complete application is received by the Township Secretary.
- E. Public notice of the hearing shall be given in accordance with the requirements of the Municipalities Planning Code.
- F. The Board of Supervisors shall issue a written decision, either granting or denying the conditional use, within forty-five (45) days after the last evidentiary hearing, and shall mail the same to the Applicant within one (1) day after it is issued in writing.
- G. In granting a conditional use, the Board of Supervisors may attach reasonable conditions and safeguards, in addition to those set forth in this Chapter, as the Board deems necessary to implement the purposes of this Chapter and the Municipalities Planning Code.
- H. Conditional uses shall meet any specific standards established by this Chapter for each use, shall meet all other applicable regulations set forth in the particular Zoning District in which the conditional use is to be conducted, and shall meet general regulations and performance standards established by this Ordinance, when applicable. In addition, the following standards shall be met:
  - (1) The proposed use shall be consistent with the purposes of the Part wherein it is permitted, and is consistent with the overall purposes of the Zoning Ordinance.
  - (2) 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 use.
  - (3) The proposed use, and its location, shall be consistent with the goals, objectives, and policies of the Alsace-Oley-Ruscombmanor Joint Comprehensive Plan, the Township Act 537 Sewage Facilities Plan and the infrastructure required to service the area, including the logical extension of public services and utilities.

- (4) The proposed use shall not adversely affect the health, safety, or general welfare of the Township.
- (5) The proposed use shall be consistent with the general nature of the surrounding uses, and will not conflict with existing uses or neighboring properties, and will be maintained in a manner which will protect the character and property values of the surrounding area.
- (6) The proposed use will provide for safe and adequate access to roads and public utilities, and will not create excessive demands on existing streets, services, utilities, stormwater controls, or adversely affect surrounding properties or the area in general.
- (7) Sufficient safeguards relating to such matters as parking, traffic control, screening, buffer areas and setbacks shall be imposed to remove any potential adverse effect upon the use of adjoining property and the neighborhood.
- (8) The construction will be accomplished using sound design and engineering principles, and will not adversely affect the existing uses in the area.
- (9) The proposed use will incorporate proper landscaping, screening, parking, signage and buffering in accordance with the applicable provisions of this Ordinance.
- (10) The granting of the proposed conditional use shall not relieve the Applicant from full compliance with all other applicable provisions and requirements of the Ordinances of Oley Township; including, specifically, the Subdivision and Land Development Ordinance, Historic District regulations, any Building Codes and requirements of other regulatory government agencies.
- (11) Grower/Processor Facility.
  - (a) Grower Processor Facility which grows Medical Marijuana must be owned and operated by a Grower/Processor legally registered with the Commonwealth, and possess a current and valid Medical Marijuana Permit from DOH pursuant to the Act.
  - (b) Grower/Processor Facility which grows, stores, harvests or processes Medical Marijuana can only do so in an indoor, enclosed and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The Grower/Processor Facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
  - (c) The maximum floor area of Grower/Processor Facility shall be limited to twenty thousand (20,000) square feet, of which sufficient space

must be set aside for secure storage of marijuana seeds, related finished product, and marijuana related materials used in production or for required laboratory testing.

- (d) There shall be no more than one (1) Grower/Processor Facility per lot.
- (e) There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any Grower/Processor Facility where Medical Marijuana growing, processing or testing occurs.
- (f) Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DOH policy or policies, and shall not be placed within any unsecure exterior refuse containers.
- (g) The Grower/Processor Facility shall provide only wholesale products to other Medical Marijuana Facilities. Retail sales and dispensing of Medical Marijuana and related products is specifically prohibited at the Grower/Processor Facility.
- (h) Grower/Processor Facility may not be located within one thousand (1,000) feet of the property line of a public, private or parochial school, day-care center or church. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located.
- (i) All external lighting serving a Grower/Processor Facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- (j) Parking requirements will follow the parking regulations found in Section 27-1609 of the Oley Township Zoning Ordinance.
- (k) A buffer planting is required where Grower/Processor Facility adjoins a residential use or district in accordance with Section 27-1633 of the Oley Township Zoning Ordinance.
- (l) Entrances and driveways to a Grower/Processor Facility must be designed to accommodate the anticipated vehicles used to service the facility.
- (m) The Grower/Processor Facility shall require a Site Plan review and approval if it is utilizing an existing facility, and Land Development review and approval if a new facility is being built and utilized pursuant to the provisions of the Oley Township Code of Ordinances.
- (n) Any and all other provisions contained in the Act affecting the

construction, use and operation of a Grower/processor Facility.

- (o) Any Medical Marijuana Facility lawfully operating pursuant to the Act shall not be considered in violation of these provisions by the subsequent location of a public, private or parochial school, day-care center or church.

(12) Medical Marijuana Delivery Vehicle Office.

- (a) A traffic impact study is required where the office is to be located and operated.
- (b) Parking requirements will follow the parking schedule found in Section 27-1609 of the Oley Township Zoning Ordinance.
- (c) All external lighting serving a Medical Marijuana Delivery Vehicle Office must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- (d) A buffer planting is required where a Medical Marijuana Delivery Vehicle Office adjoins a residential use or district pursuant to Section 27-1633 of the Oley Township Zoning Ordinance.
- (e) Entrances and driveways to a Medical Marijuana Delivery Vehicle Office must be designed to accommodate the anticipated vehicles used to enter and exit the premises.
- (f) The Medical Marijuana Delivery Vehicle Office shall require a Site Plan review and approval if it is utilizing an existing facility, and Land Development review and approval if a new facility is being built and utilized pursuant to the Oley Township Code of Ordinances.
- (g) If for some reason a Medical Marijuana product is to be temporarily stored at a Medical Marijuana Delivery Vehicle Office, the office must be secured to the same level as a Grower/Producer Facility and Dispensary Facility.
- (h) Any and all other provisions contained in the Act affecting the construction, use and operation of a Medical Marijuana Delivery Vehicle Office.

(13) Dispensary Facility.

- (a) A Dispensary Facility must be owned and operated by a legally registered Dispensary in the Commonwealth, and possess a current and valid Medical Marijuana permit from the DOH pursuant to the Act.

- (b) A Dispensary Facility may only dispense Medical Marijuana in an indoor, enclosed, permanent and secure building, and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- (c) Dispensary Facility may not operate on the same site that a Grower/Processor Facility is located.
- (d) Dispensary Facility shall have a single secure public entrance, and shall implement appropriate security measures to deter and prevent the theft of Medical Marijuana and unauthorized entrance into areas containing Medical Marijuana, all of which shall be in accordance with the Act.
- (e) Permitted hours of operation of a Dispensary Facility shall be as follows:
 

Monday	–	10:30 to 6:00
Tuesday	–	10:30 to 6:00
Wednesday	–	10:30 to 6:00
Thursday	–	10:30 to 6:00
Friday	–	10:30 to 6:00
Saturday	–	10:30 to 6:00
Sunday	–	Closed
- (f) A Dispensary Facility shall be a maximum of three thousand (3,000) gross square feet, of which no more than five hundred (500) square feet shall be used for secure storage of Medical Marijuana, and shall have an interior customer waiting area equal to a minimum of twenty-five percent (25%) of the gross floor area of the Dispensary Facility.
- (g) Dispensary Facility shall:
  - i. Not have a drive-through service;
  - ii. Not have outdoor seating areas;
  - iii. Not have outdoor vending machines;
  - iv. Prohibit the administering of, or the consumption of Medical Marijuana on the premises; and,
  - v. Not offer direct or home delivery service.
- (h) A Dispensary Facility may dispense only Medical Marijuana to certified patients and caregivers as set forth in the Act, and shall comply with all lawful, applicable health regulations, including those of the DOH.



- (i) A Dispensary Facility may sell medical devices and instruments that are specifically needed for the administration of Medical Marijuana.
- (j) A Dispensary Facility may not be located within one thousand (1,000) feet of a property line of a public, private or parochial school, day-care center or church. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located.
- (k) Dispensary Facility shall be a minimum distance of one thousand (1,000) feet from the next nearest Medical Marijuana Facility. This does not include complimenting or supporting businesses covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of the municipality in which it is located. This separation distance does not apply to the distance between the Grower/Processor Facility and the specific Dispensary Facility they serve, or with which they partner.
- (l) Any Medical Marijuana Facility lawfully operating pursuant to the Act shall not be rendered in violation of these provisions by the subsequent location of a public, private or parochial school, day-care center or church.
- (m) All external lighting serving a Dispensary Facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- (n) Parking requirements will follow the parking schedule found in Section 27-1609 of the Oley Township Zoning Ordinance. Off-Street Parking Regulations shall utilize those listed for medical and dental offices, including outpatient clinics.
- (o) A buffer planting is required where a Dispensary Facility adjoins a residential use or district pursuant to Section 27-1633 of the Oley Township Zoning Ordinance.
- (p) Entrances and driveways to a Dispensary Facility must be designed to accommodate the anticipated vehicles used to service the facility.
- (q) The Dispensary Facility shall require a Site Plan review and approval if it is utilizing an existing facility, and a Land Development review and approval if a new facility is being built and utilized pursuant to the Oley Township Code of Ordinances.

- (r) Any and all other provisions contained in the Act affecting the construction, use and operation of a Dispensary Facility.
- I. All proposed conditional uses shall comply with all applicable provisions of this Chapter and, prior to any such use being established in Oley Township, a land development plan shall be submitted for review and approval in accordance with the Subdivision and Land Development Ordinance [Chapter 26], unless waived or modified by the Township Supervisors.

*(Ord. 2013-362, 10/14/2013, §21, and Ord. 371, 05/08/2017, §8)*

**PART 22****ADMINISTRATION AND ENFORCEMENT****§27-2201. Zoning Officer.**

- A. Appointment. A Zoning Officer shall be appointed by the Township Supervisors to administer and enforce this Chapter. Compensation of the Zoning Officer shall be established by Resolution of the Board of Supervisors. The Zoning Officer shall not hold any elective office in the Township.
- B. Qualifications. The Zoning Officer shall, by training or experience, be familiar with building procedures and zoning terminology and with the proper application of the powers and duties of his office.
- C. Duties and Powers. It shall be the duty of the Zoning Officer, and he is hereby given the power and authority, to enforce the provisions of this Chapter and the amendments thereto. He shall have such duties and power as are conferred on him by this Chapter and as are reasonably implied for that purpose subject to the authority of the Board of Supervisors. The Zoning Officer's duties shall include, but are not limited to, the following:
- (1) Receive applications and issue permits as set forth in this Chapter.
  - (2) Keep a record of all official business and activities, including complaints of a violation of any of the provisions of this Chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued and reports and inspections made in connection with any structure, building, sign and/or land, shall be retained as long as the structures, etc., remain in existence.
  - (3) Make inspections as required to fulfill his duties. In doing so, however, he shall first seek the permission of the land owner or tenant, and, in the event such permission cannot be voluntarily obtained, he shall have the right to take such other legal action as is authorized under the law.
  - (4) Issue permits for buildings, structures and land uses for which Subdivision and Land Development approval is required only after all necessary approvals have been secured and plans have been recorded.
  - (5) Issue permits for uses requiring new or altered onsite sewage disposal facilities only after any necessary permit has been issued by the Township Sewage Enforcement Officer.
  - (6) Issue permits for special exception uses or for variances only after a special exception or variance has been approved by the Zoning Hearing Board in accordance with the regulations of this Chapter. Issue permits for

conditional uses only after a conditional use has been approved by the Board of Supervisors.

- (7) Issue permits for building requiring approval by the Pennsylvania Department of Labor and Industry only after such approval has been secured. Issue permits for use involving an access point requiring Pennsylvania Department of Transportation approval only after such approval has been secured.
- (8) Submit report of his activities as requested by the Board of Supervisors.
- (9) Institute civil enforcement proceedings and send enforcement notices as defined in Section 616.1 of the Pennsylvania Municipalities Planning Code, as amended, to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
  - (a) The name of the owner of record and any other person against whom the municipality intends to take action.
  - (b) The location of the property in violation.
  - (c) The specific violation with a description of the requirements which have not been met, citing, in each instance, the applicable provisions of the Chapter.
  - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Chapter.
  - (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**§27-2202. Permits.**

A. Permits are required for any of the following:

- (1) Construction of a building.
- (2) Basic structural alteration of a building.
- (3) Construction or major repair of a driveway.

- (4) Change in use of a building or of land.
- (5) Signs, subject to the provisions of Part 19.
- (6) Change in occupancy of a building used for nonresidential purposes.

B. The requirements for these permits are discussed below.

**§27-2203. Building Permits, Certificates of Occupancy and Driveway Permits.**

- A. A building permit is required prior to the erection or basic structural alteration of a building. A certificate of occupancy is required prior to the initial occupancy of any building. The requirements for these permits are delineated in the Oley Township Building Code Ordinances [Chapter 5].
- B. A driveway permit is required for construction of a new driveway or major repair of an existing one. The requirements for a driveway permit are delineated in the Oley Township Driveway Ordinance [Chapter 21].

**§27-2204. Zoning Permit.**

A zoning permit shall be required prior to the initiation to a use on a property, prior to the change in use of a building or land, prior to a change in occupancy of any building used for nonresidential purposes, and prior to the change or extension of a nonconforming use. In the case where a building permit is required for a structure under the Oley Township Building Code Ordinance [Chapter 5], the issuance of a building permit shall also constitute the issuance of a zoning permit.

**§27-2205. Temporary Use Permit.**

A temporary use permit may be authorized by the Board of Supervisors for a nonconforming structure or use which it deems necessary to the public health, safety or general welfare of the Township. Each permit shall be issued with the understanding that any such use shall be removed promptly at the termination of the period authorized without cost to the Township.

**§27-2206. Time Limitations For Permits.**

Each permit issued by the Township shall have a specified expiration date. The time limit for each type of permit shall be contained in a Resolution adopted by the Township Supervisors.

**§27-2207. Permit Application.**

- A. Application for all permits shall be made in writing to the Zoning Officer on such forms as may be furnished by the Township. The application for all zoning permits shall contain all the information necessary to enable the Zoning Officer to ascertain whether the proposed building or use complies with the provisions of this Chapter. The Zoning Officer is hereby directed to consult with the Township Engineer on engineering questions relating to his duties.
- B. Permits shall be granted or refused within ten (10) days after the written application has been filed with the Zoning Officer. All applications with accompanying plans and documents shall become a public record.

**§27-2208. Fees.**

Fees required in the administration of this Chapter shall be paid in accordance with the provisions of the Building Code Ordinances [Chapter 5], or such other Chapter or Fee Resolution as shall be adopted by the Board of Supervisors, and shall be paid into the Township Treasury. Each applicant for a permit, appeal, special exception, variance or amendment shall, at the time of making application, pay the requested fee as set forth in the required Ordinance or Resolution.

**§27-2209. Violations.****A. Scope.**

- (1) It shall be a violation of this Chapter to fail to secure any permit required by this Chapter. It shall also be a violation of this Chapter to fail to make proper payment when required or to undertake other deliberate actions which are contrary to the terms of this Chapter.
- (2) It shall be a violation of this Chapter to continue work or to use a building, land, structure or other facilities after being subject to an Enforcement Notice under Subsection C. below.

**B. Complaints.**

- (1) Whenever a violation of this Chapter occurs, or is alleged to have occurred, the Board of Supervisors, or with their approval, an officer of the Township, or any aggrieved owner of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may file a written complaint or may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Chapter.

- (2) Any such written complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Officer, who shall properly record such complaint, make an immediate investigation, and take action thereon as provided by this Chapter and Section 617 of the Pennsylvania Municipalities Planning Code, as amended.
- C. Enforcement Notices. If it appears to the Township that a violation of this Chapter has occurred, the Township or its Zoning Officer may initiate an enforcement proceeding by sending an enforcement notice as referenced in Section 27-2201.C.9. of this Chapter.
- D. Legal Action. If the notice of violation issued by the Zoning Officer is not complied with within the time set within the enforcement notice, either by corrective action or the filing of an appeal, the Zoning Officer shall notify the Board of Supervisors, which shall request the Township Solicitor to initiate such appropriate action or proceedings at law or in equity to restrain, remedy or abate such violation. Nothing contained herein shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation.
- E. Postings. The Township shall have the authority to post appropriate signs on the property stating that work undertaken is in violation of this Chapter, and that any contractor or subcontractor, or any person with an identifiable property interest, shall be subject to the penalties of this Chapter.

**§27-2210. Enforcement Remedies.**

- A. Enforcement Remedies.
- (1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there was a good faith basis of the person, partnership or corporation violating the Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Chapter shall be paid over the Township.

- (2) The Court of Common Pleas, upon petition, may grant an order to stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- (3) Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.

*(Ord. 2013-362, 10/14/2013, §22)*



**PART 23****AMENDMENTS****§27-2301. Powers.**

The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this Chapter, including the Zoning Map. Such shall be done in accordance with the following procedure:

**§27-2302. Definitions.**

The words “amend”, “amendment”, “amendments”, or “amended” in this Chapter shall be deemed to include any modification of the text or eliminations of any provisions or amendments thereof, or any repeal or elimination of any such provision or part thereof, or any addition to the Chapter or to an “amendment” thereof, and shall also be deemed to include any change in the number, shape, boundary or area of any district or districts, any repeal or abolition of any part of such map, and, in addition to such map, any new map or maps or any other change in the maps or any map.

**§27-2303. Initiation of Amendments.**

- A. Proposals for amendment, supplement, change, modification or repeal may be initiated by the Board of Supervisors on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property, subject to the following provisions:
- (1) **Proposals Initiated By the Board of Supervisors.** The Board of Supervisors shall refer every proposed amendment, supplement, change, modification or repeal originated by them to the Township Planning Commission. Within thirty (30) days of the submission of said proposal, the Planning Commission shall submit to the Board of Supervisors a report containing the Planning Commission’s recommendations, including any additions or modifications to the original proposal.
  - (2) **Proposals Originated By the Township Planning Commissions.** The Township Planning Commission may at any time transmit to the Board of Supervisors any proposal for the amendment, supplement, change, modification or repeal of this Chapter.
  - (3) **Proposals Originated By One or More Land Owners.** The Board of Supervisors shall refer every proposed amendment, supplement, change modification or repeal originated by any one (1) or more land owners to the Township Planning Commission at least thirty (30) days prior to hearing on such proposed amendment to provide the Planning Commission an

opportunity to submit recommendations to the Board of Supervisors.

**§27-2304. Hearings.**

- A. Voting on the Enactment of an Amendment. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon pursuant to public notice. No such amendment shall become effective until after such hearing, at which parties in interest and citizens shall have an opportunity to be heard. If, after any public hearing held on an amendment, the proposed amendment is revised, or further revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- B. Public Notice and Publication. Public notice, publication and advertisement of Zoning Ordinance amendments shall be in accordance with Section 609 of the Pennsylvania Municipalities Planning Code, as amended, and as set forth in the definition of “public notice” in Section 27-202 of this Chapter.
- C. Hearing Ban. No public hearing by the Board of Supervisors shall be held prior to or during the thirty (30) day period in which the Township Planning Commission has been directed to review and report its recommendations to the Board of Supervisors.
- D. County Planning Commission Review. At least thirty (30) days prior to the public hearing on the proposed amendment, the Board of Supervisors shall submit the amendment to the County Planning Commission for review and recommendations.

**§27-2305. Landowner Curative Amendments.**

- A. Challenge on Substantive Grounds. A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Subsection B below. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request as provided in Subsection B. The curative amendment and challenge shall be referred to the Township Planning Commission and County Planning Commission as provided in Sections 27-2303.A.3. and 27-2304.D., and public notice of the hearing thereon shall be given as provided in Section 27-2304.B. above.
- B. Conduct of Hearing. A landowner curative amendment submitted to the Board of Supervisors shall be considered in accordance with the provisions and procedures set forth in Sections 609.1 and 908 of the Pennsylvania Municipalities Planning Code, as amended.

- C. Impact Statements. When the Board of Supervisors determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or may adopt an alternative amendment which will cure the challenge defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner, and shall also consider:
- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
  - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter or the Zoning Map.
  - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
  - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the sources to development and any adverse environmental impacts.
  - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

**§27-2306. Township Curative Amendment.**

- A. Declare This Chapter Invalid. The Board of Supervisors may declare, by formal action, this Chapter or portions thereof substantively invalid, and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Board of Supervisors shall:
- (1) By Resolution, make specific findings setting forth the declared invalidity of this Chapter which may include:
    - (a) References to specific uses which are either not permitted or not permitted in sufficient quantity.
    - (b) Reference to a class of use or uses which require revision.
    - (c) Reference to the entire Chapter which requires revisions.
  - (2) Begin to prepare and consider a curative amendment to this Chapter to correct the declared invalidity.

- B. Curative Amendment Time Limitation. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate, or reaffirm the validity of, this Chapter pursuant to the provisions required by Sections 27-2303 and 27-2304 in order to cure the declared invalidity of this Chapter.
- C. Ban on Landowners Curative Amendment. Upon the initiation of the procedures, as set forth in Section 27-2306.A., the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Section 27-2305, nor shall the Zoning Hearing Board be required to give a report requested under Section 27-2005 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the Resolution required by Section 27-2306.A. Upon completion of the procedures as set forth in Sections 2306.A. and B., no rights to a cure pursuant to the provisions of Section 27-2305.A. and Section 27-2005 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Chapter for which there has been a curative amendment pursuant to this Section.
- D. Utilization of Curative Amendment Procedures. The Board of Supervisors having utilized the procedures as set forth in Sections 2306.A. and B. may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of this Chapter, pursuant to Section 27-2306.B.; provided, however, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the Township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Township may utilize the provisions of this Section to prepare a curative amendment to this Chapter to fulfill said duty or obligation.

*(Ord. 2013-362, 10/14/2013, §23)*

**PART 24**  
**APPENDICES**

**A. Wellhead Protection Zones Plan.**

*(Ord. 2013-362, 10/14/2013, §24)*