

# **South Abington Township**

## **Zoning Ordinance**

Internal Working Draft

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Prepared by: Environmental Planning & Design, LLC

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INTERNAL DRAFT

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INTERNAL DRAFT



## ARTICLE 1 General Provisions

### Section 1.1 – Title and Short Title

A. Title and Authority.

An ordinance establishing regulations and restrictions for the location and use of lots, land, buildings, and other structures; the height, number of stories, and size and bulk of buildings and structures; the density of population; off-street parking; and similar accessory regulations in South Abington Township, Lackawanna County, Pennsylvania, and for said purposes dividing South Abington Township into districts and establishing the boundaries thereof, prescribing certain uniform regulations for each such district, and providing for administrative enforcement and amendment of its provisions in accordance with the Pennsylvania Municipalities Planning Code (MPC), 53 P.S. § 10101 et seq., as amended.

B. Short Title.

This Ordinance shall be known and may be cited as the “South Abington Township Zoning Ordinance.”

### Section 1.2 – Purpose

This Ordinance is enacted for the following purposes:

- A. To promote, protect, and facilitate the following: the public health, safety, morals, and general welfare; coordinated and practical community development; proper density of population; travel and transportation facilities, civil defense, and disaster evacuation; and the provision of adequate light and air, vehicle parking and loading space, water and sewage, schools, public grounds and other public requirements, and fire and police protection;
- B. To prevent occurrence of the following: overcrowding; blight; danger and congestion in travel and transportation; and loss of health, life, or property from fire, flood, panic, or other dangers; and
- C. To serve as a part of the overall plan for the orderly growth and development of South Abington Township, and as such, supplement the Scranton-Abingtons Planning Association Comprehensive Plan.

### Section 1.3 – Community Development Objectives

This Zoning Ordinance is enacted as part of the overall plan for the orderly growth and development of South Abington Township. As such, this Ordinance is based upon the expressed or implied community development goals and objectives in the Scranton-Abingtons Planning Association Comprehensive Plan.

**Section 1.4 – Interpretation**

- A. The provisions of this Ordinance shall be deemed to be the minimum requirements to meet the purposes and objectives stated herein, adopted for the promotion of the public health, safety, morals, and general welfare of South Abington Township. When the provisions of this Ordinance impose greater restrictions than those of any federal or state statute, rule, regulation, or ordinance, the provisions of this Ordinance shall prevail. Where the provisions of any federal or state statute, rule, regulation, or ordinance impose greater restrictions than those of this Ordinance, the provision of such federal or state statute, rule, regulation, or ordinance shall prevail.
- B. In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to its intended meaning, in favor of the property owner and against any implied extension of the restriction.

**Section 1.5 – Applicability, Severability, and Scope**

- A. No building, structure, or lot shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, altered, or expanded horizontally or vertically, except in conformity with all regulations and provisions contained herein, unless relief is granted by the South Abington Township Zoning Hearing Board through a special exception or variance.
- B. The provisions of this Ordinance are hereby declared to be severable. If a court of competent jurisdiction declares any regulations or provisions of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those regulations and provisions which are expressly stated in the decision to be invalid or ineffective, and all other regulations and provisions of this ordinance shall continue to be separately and fully effective. It is the expressed intent of the South Abington Township Board of Supervisors that this Ordinance would have been enacted had such invalid or ineffective regulation or provision not been included herein.
- C. This Ordinance shall not apply to an existing or proposed building or extension thereof that is used or to be used by a public utility corporation regulated by the Pennsylvania Public Utility Commission (PUC), if upon petition of the corporation, the PUC shall decide in a public hearing that the present or proposed situation of the building or extension in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the PUC to ensure that both the corporation and the South Abington Township have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

**Section 1.6 – Effective Date**

Under the authority conferred by the Pennsylvania Municipalities Planning Code (MPC), as amended, and following a public hearing, the South Abington Township Board of Supervisors hereby enacts and ordains into an ordinance this document on the date of Month and Day, 2020. All zoning ordinances of South Abington Township previously in adoption are hereby repealed.



## ARTICLE 2 Definitions

### Section 2.1 – Interpretations

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

- A. Words used in the present tense include the future tense.
- B. The singular number includes the plural, and the plural number includes the singular.
- C. Words of masculine gender include the feminine gender, and words of feminine gender include the masculine gender.
- D. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- E. If a word is not defined in this Ordinance but is defined in other ordinances of the South Abington Township Code, the definition in the applicable other ordinance shall apply. If a word is defined in both this Ordinance and another Township ordinance, each definition shall apply to the provision of each applicable ordinance.
- F. The words “such as,” “includes,” “including,” and “e.g.” shall provide examples. These examples shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
- G. The words “shall” or “must” are mandatory.
- H. The words “may” or “should” are permissive.
- I. The word “lot” includes the words “plot,” “parcel,” and “property.”
- J. The word “sale” shall also include rental, if the word “rental” is not specifically mentioned.
- K. The words “used” or “occupied” as applied to land or buildings shall be construed to include the words “intended, designed, maintained, or arranged to be used or occupied.”
- L. The word “erected” shall be construed to include the words “constructed, altered, or moved.”

### Section 2.2 – Definitions

The words, terms, and phrases in this Section are defined in order to facilitate the interpretation of this Ordinance for administrative purposes and in the carrying out of duties by appropriate offices and by the Zoning Hearing Board. When used in this Ordinance, these words, terms, and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

**ABUSED PERSON SHELTER** - A residential shelter use in which rooms are provided to serve as a temporary safe and supportive environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

**ACCESS DRIVE** – a vehicular throughway serving a non-residential use or *multi-family* use located within a *parking lot* which directly adjoins *parking spaces*. An *access drive* provides the vehicular connection between *parking space* area and the *driveway* which directly connects to the *public right-of-way*. The *access drive* does not include the vehicular path that connects the parking area to the *public way*.

**ACCESSORY USE** – A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ACCESSORY STRUCTURE** – A structure, such as a private garage, storage shed, gazebo, or greenhouse, serving a purpose customarily incidental to the use of the principal building and located on the same lot as the principal building.

**ADDITION** – See "extension."

**AGRICULTURAL PROCESSING ARTISAN** - Limited scale transformation of raw materials or food

**AGRICULTURAL PRODUCTS PROCESSING** - An industry that involves the processing of raw agricultural products; and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as sawmills, tanneries, dairies and food canning and freezing operations.

**AGRITOURISM** - The practice of visiting an agribusiness or agricultural operation for the purpose of recreation, education, purchase or involvement in the operation. These operations include those that are for-profit and those that are provided free of charge.

**ALLEY** – A street, usually located to the rear or side of properties otherwise abutting a street, used primarily for vehicular service access and which does not typically provide primary frontage for a building.

**ALTERATION** - As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another, also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance. This term shall not apply to agricultural plowing and tilling activity.

**ALTERATION, STRUCTURAL** – Any change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior partitions or any enlargement to or diminution of a building or structure, or the moving of a building from one location to another.

**AMENDMENT** – Any change or revision of the text of this chapter or the Zoning Map

**AMUSEMENT PARK** - A commercially operated park with a predominance of outdoor games and activities for entertainment, including motorized rides, water slides, miniature gold, batting cages, and the like.

**ANIMAL HOSPITAL OR VETERINARY CLINIC** - A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

**APPLICANT** – A subdivider, landowner or developer who has filed an application for development, including the landowner's or developer's heirs, successors and assigns.

**ASSISTED LIVING FACILITY** - A building, establishment, complex or distinct part thereof which: a) accepts primarily aged persons (62 years of age or older) for domiciliary care; and b) provides on site to its residents, room, board, non-medical living assistance services appropriate to the residents' respective needs and contract medical services as prescribed by each resident's treating physician. Such facility shall provide services to sixty (60) or more residents.

**BAKERY** - An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service. A bakery shall be considered a general retail use.

**BANK OR FINANCIAL INSTITUTION** - An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds. (See "service establishment.")

**BAR OR TAVERN** - A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may occur.

**BEST MANAGEMENT PRACTICES (BMPs)** – Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. Additionally, agricultural practices are intended to be consistent with the Pennsylvania Nutrient Management Chapter.

**BETTING USE** - A use where lawful gambling activities are conducted, including but not limited to off-track pari-mutuel betting. This term shall not include betting under the State Lottery programs or betting under the "Small Games of Chance" provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property (such as a "membership club").

**BILLBOARD** - A board, panel or tablet used for the display of posters, printed or painted advertising matter, either illuminated or nonilluminated, that directs attention to goods, merchandise, entertainment, or services offered elsewhere than the premises where the sign is located.

**BILLBOARD, ON ITS OWN LOT** - A type of off-premises advertising sign and which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located, or a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered a billboard.

**BOARD OF SUPERVISORS** – The governing body of the Township of South Abington, Pennsylvania.

**BOARDING OR LODGING HOUSE** - A residential use in which any or all of the following applies:

1. individual room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or \_
2. A dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of "family"), or
3. If individual units of living space not meeting the definition of a lawful dwelling unit are sedately rented to person(s) who are not "related" to the owner of the record of the property.

B. A boarding house shall not include a use that meets the definition of the following uses: treatment center, abused person shelter, hotel, dormitory, motel, life care center, personal care center, bed and breakfast use, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents.

C. This use shall only involve renting living accommodations for minimum periods of 5 consecutive days. See "hotel or motel."

**BOUNDARY** – A line marking the limit, or border, of a lot or district.

**BREW PUB** - A restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on premises for either

**BREWERY** - An Industrial use that brews ales, beer, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than stores as defined herein and/or small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use

**BUILDING** – A structure, including any part thereof, having a roof and used for the shelter or enclosure of persons or property.

**BUILDING, CONTRACTING, OR RELATED BUSINESS** - or related business-the operations office related to an entity engaged in construction and/or development.

**BUSINESS SERVICE ESTABLISHMENT** - An establishment engaged in rendering services to business establishments on a fee or contract basis or to the general public on a less frequent or personal basis than provided by personal services establishments. Such enterprises may include: the service and repair of office equipment, machines, electronics, furniture, medical supplies, or commercial appliances; the printing, copy, and production of documents, signs, or banners; retail shipping and mailing services; food catering; locksmithing; carpentry; painting; remodeling; interior decorating or upholstering; roofing and insulation; carpet installation; heating and cooling; plumbing; taxidermy; and other similar business activities.

**BYOB CLUB** - (Otherwise known as Bring Your Own Bottle Clubs) means any business facility such as a dance hall, club, association or entity not licensed by the Pennsylvania Liquor Control Board, wherein patrons twenty-one (21) years of age and older may, after payment of a fee, cover charge or membership fee, consume alcoholic beverages which said patrons have carried

onto the premises. This definition does not include a facility which is rented for a limited period of time, not to exceed twelve (12) hours, by an individual or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises.

**CALIPER** – As defined by the American Standards of Nursery Stock. Typically, the diameter of a tree at the height of 6 inches from the top of the root ball. In the case of a multi-stem tree, the caliper is determined by the average of the stems.

**CARPORT, GARAGE, OR SHED, PRIVATE** - A roofed structure not more than 75 percent enclosed by walls and attached to the main building for the purpose of providing shelter for one or more motor vehicles

**CAR OR TRUCK WASH** - Any building or premises or portions thereof used for washing automobiles for commercial purposes.

**CARTWAY** – The portion of a street right-of-way designed or intended for vehicular use.

**CEMETERY** - An area of land or buildings used for the burial of deceased humans, but not animals. The internment or scattering or remains of properly cremated humans is not regulated by this chapter

**CENTER LINE** – A line running parallel to and equidistant from both sides of a street.

**CERTIFICATE OF USE AND OCCUPANCY** – The certificate issued by the Township, which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the land and structure in its several parts, together with any special stipulations or conditions of the building permit.

**CIVIC** – The term defining not-for-profit organizations dedicated to the arts, culture, education, recreation, and/or government.

**CLEAR SIGHT TRIANGLE** – An area of unobstructed vision at street intersections defined by the center lines of the streets and by a line of sight between points on their center lines at a given distance from the intersection of the center lines.

**CLUSTER RESIDENTIAL DEVELOPMENT** - A residential cluster shall include an area to be developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open space as an appurtenance. Such common or public open space shall be assured of continued operation and maintenance through the creation of a homeowners' association, or the developer's binding agreements as may be required to achieve such assurances.

**COLLEGE OR UNIVERSITY** - An institution or higher learning authorized to grant associates, bachelors, masters and/or doctorates degrees. (for non-degree institutions, see trade schools.)

**COMMERCIAL RECREATION FACILITY, INDOOR** - An establishment owned by a private-sector entity where the principal enterprise or activity involves the provision of primarily indoor recreational, amusement, and leisure activities, such as, but not limited to: fitness training, athletic courts, ice rinks, roller skating rinks, indoor playing fields, indoor swimming pools, bowling alleys, arcade games, indoor mazes, indoor play structures and ball pits, escape rooms, indoor riflery or archery, indoor batting cages, and indoor golf.

**COMMERCIAL RECREATION FACILITY, LARGE-SCALE/INTENSIVE** - A establishment owned by a private-sector entity where the principal enterprise or activity involves the provision of outdoor recreational, amusement, and leisure activities, such as, but not limited to: tennis courts, sand volleyball courts, miniature golf courses, driving ranges, outdoor riflery or archery, outdoor batting cages, playing fields, outdoor swimming pools, beaches, and bumper car tracks, but not to include “golf courses.”

**COMMUNITY CENTER OR LIBRARY** - A noncommercial use that exists solely to provide leisure and educational activities and programs to the general public or certain age groups. The use also may include the noncommercial preparation and/or provision of meals to low-income elderly persons. This shall not include residential uses or a “treatment center.”

**COMMUNITY GARDEN** - An area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

**CONSERVATION** - Any parcel or area of undeveloped land conserved in its natural state for perpetuity through deeds or other legal means.

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

**CONVENIENCE STORE** - A one-story retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a “food market”). It may also include the sale of gasoline but shall not include the repair or service of vehicles. [Ord.2-2000]

**CRAFTSMAN-ARTISAN MANUFACTURING** - a use conducted for the generation of revenue entirely within a dwelling, or in an accessory structure located on the same lot as dwelling. The use must be clearly incidental and accessory to the lot’s residential use. The use must be limited to low intensity uses that produce, repair and/or sell a product, but can be operated in such a way that they do not adversely affect adjacent properties. Said use shall employ no less than two (2) and no more than ten (10) employees

**CRAFTSMAN-ARTISAN WORKSHOP** - An establishment, not exceeding 3,000 square feet of floor area, for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

**CREMATORIUM** - A facility accessory to a funeral home or mortuary containing properly installed, certified equipment intended for reducing deceased humans or animals to ashes by burning (cremation).

**CROP FARMING** - The cultivating, raising, and harvesting of products of the soil and the storage of these products produced on the premises. The definition of “crop farming” shall include orchards and tree farms but shall not include “raising of livestock,” “forestry,” “commercial stables or riding academies,” or “kennels.” An “agricultural marketing enterprise,” as defined herein, is an accessory use to crop farming where permitted. If a crop farming lot includes more than fifteen (15) acres, it may also include the keeping of up to ten (10) additional

animals as an accessory use in addition to what is permitted by the definition for “keeping of pets.”

**CROP STORAGE, AS AN ACCESSORY USE TO FARMING** - As an accessory use to farming- the temporary or seasonal storage of harvested materials.

**DAY CARE CENTER, ADULT** - A use providing supervised care and assistance to persons who are not in good physical health or suffering from Alzheimer disease or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

**DAY CARE CENTER, CHILD** - A use Involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by this Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, In addition to children who are relatives of the care giver. See also the definition of "adult day care center."

A. (Child) Day Care, as an Accessory Use. A type of "day care" use that provides care for 6 or fewer children at one time who are not relatives of the care giver. See Section 403.

B. (Child) Day Care Center, as a Principal Use. A type of "day care" use that provides care for 7 or more children at any one time who are not relatives of the primary operator. See Section 402. See also day care as an accessory use of a business under Section 306.D.

**DAY CARE HOME, FAMILY** - A premise in which child day care is provided at any one time to between four (4) to six (6) children or more who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.

**DAY CARE HOME, GROUP** - A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

**DENSITY** – The computation of overall residential dwelling units per acre of land. This figure shall be rounded to the nearest tenth and shall not include the area of lands intended for non-residential purposes, including churches or other civic/public uses within the development, nor shall it include dwelling units accessory to residential or non-residential uses. Open space shall however, be included in the computation.

**DEP** – The Pennsylvania Department of Environmental Protection (“DEP”), the Commonwealth agency responsible for overseeing and administering environmental laws and regulations within Pennsylvania.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, streets and other

paving, utilities, filling, grading, excavation, mining, dredging or drilling operations. For the purposes of Part 8 only, the definition of development shall also include the storage of equipment or materials.

**DISTRIBUTION CENTER** - An enclosed facility used for the storage of merchandise or commodities for a short period of time, with additional operations such as cross-docking, order fulfillment, returned goods processing, packaging, and labeling.

**DISTRICT** – All land and watercourses located within designated boundaries on the Official Zoning Map; a zoning district.

**DRIVE-THRU FACILITY** - Any part of a building or structure that, by design of physical facilities or by services or pods provided, encourages or permits customers to transact business, receive a service or obtain a product in a motor vehicle on the premises.

**DRIVEWAY** - a vehicular connection from a lot to the public right-of-way. A driveway terminates at the right-of-way line and/or the access drive.

**DRUG STORE/PHARMACY** - An establishment engaged in the retail sale of prescription drugs, nonprescription medicine, cosmetics and related supplies.

**DWELLING:**

**DWELLING: APARTMENT BUILDING** – A building or buildings designed for occupancy by three or more families living independently of each other in separate dwelling units. The terms “multi-family dwelling” shall include condominiums as well as non-condominium housing units, including construction types. Subject to provisions of Section 5.23 - Multi-Family Project.

**DWELLING: CONVERSION APARTMENT** - To be considered a conversion, any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or increase the height of an existing structure shall not be considered a conversion and shall be required to meet the appropriate provisions established in that District for that particular use.

**DWELLING: GARDEN APARTMENTS** - A group of rental units, generally under single ownership (but a condominium is not precluded) where there shall not be more than eight (8) dwelling units contained within each structure; such structures containing garden apartment units are generally less than four (4) stories in height although in the Municipality they shall not exceed a height of 2.5 stories or thirty-five (35) feet. Subject to provisions of Section 5.23 - Multi-Family Project.

**DWELLING: SINGLE-FAMILY DETACHED** - A dwelling unit detached from any other dwelling unit accommodating a single family and having a front, rear and two (2) side yards.

**DWELLING: TOWNHOUSE** - A town house shall include a group of not more than eight (8) single-family attached dwellings separated from each other by common walls, where each unit contains a separate and private entrance to the outside. Subject to provisions of Section 5.23 - Multi-Family Project.

**DWELLING: TWO-FAMILY** - A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall, and having one (1) side yard



adjacent to each dwelling unit; or upstairs/downstairs units. A two-family dwelling in a Multi-Family Project (Section 5.23) shall be considered a townhouse for the purposes of regulation by this Ordinance.

**EMERGENCY SERVICES** - A building for the housing of fire, emergency medical or police equipment and for related activities. A Membership Club may be included if It is a permitted use in that District. This may include housing for emergency personnel while on-call.

**EQUESTRIAN FARM** - A building or structure and/or land whose operator keeps equines primarily for breeding and boarding and which operation may or may not be incidental to the owners primary occupation

**ERECTION** – Construction or assembly.

**ESSENTIAL SERVICES** - Municipal or utility facilities that do not require enclosure in a building which are necessary for the public health and safety and which are routine, customary and appropriate to the character of the area in which proposed, including such facilities as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, police call boxes, traffic signals, hydrants, and other similar equipment. Building, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial commutations devices and/or facilities not specifically regulated by the Pennsylvania Public Utility Commission shall not be considered essential services or essential services requiring enclose in building. (See “semi-public building or use.”)

**EVENT BARN/FACILITY** - An establishment which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations.

**FARM CAFÉ**- An eating establishment that prepares and serves food grown on-site and within Region 5 as defined by the Pennsylvania Department of Agriculture to the greatest extent possible. The principal objective of a farm cafe is to support local agriculture and provide alternatives to the conversion of farmland through sustainable rural economic development and empowering far

**EXPANSION** – An increase in the size of an existing structure or use, including the physical size of a property, building, parking lot, and other improvements.

**EXTENSION** – An addition to the floor area of an existing structure, an increase in the size of a structure, or an increase in that portion of a lot occupied by an existing use; an enlargement.

**FAA** – Federal Aviation Administration of the United States Department of Transportation.

**FAMILY** – (1) A person; (2) two or more persons, all of whom are related by blood, marriage, parentage or adoption (including foster children), living together as a single housekeeping unit. In addition to the family, two or fewer unrelated persons may reside with the housekeeping unit in the dwelling unit. For dwelling units in multifamily buildings containing three or more dwelling units (other than those in vertical mixed use buildings in the Terraced Streetscape zone) the number of persons permitted to occupy a unit shall be determined by the Township Office in accordance with the provisions of the South Abington Township Housing Code.

**FARM STAND** - A stand that sells fresh agricultural produce.

**FARMERS MARKET** - The offering for sale of fresh and packaged agricultural products directly to the consumer at an open-air market and/or combination of enclosed and open-air facility.

**FENCE** – A fabricated barrier used to enclose an area of land.

**FLEA MARKET** - A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered to be flea markets.

**FLICKER** – A repeating cycle of changing light intensity.

**FLOODPLAIN** – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**FORESTRY** - Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services including the operation of a sawmill but excluding other wood manufacturing businesses.

**FOWL** – a domestic bird of any kind, not including chickens.

**FUNERAL HOME** - A building or part thereof used for human funeral services. Such building may contain space and facilities for: (1) embalming and the performance of other services used in preparation of the dead for burial; (2) the performance of autopsies and other surgical procedures; (4) the storage of caskets, funeral urns, and other related funeral supplies; and (4) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

**GALLERIES** - The principal or accessory use of a premises for the sale, display, and exhibition of fine visual art and craft products and which may include ancillary production or instruction in the production of arts and crafts.

**GAMELAND OR PRESERVE** - Areas intended to remain in a predominately natural or undeveloped state to provide resource protection and possible opportunities for passive recreation and environmental education for present and future generations.

**GASOLINE SERVICE STATION** - A structure, building, or area of land or any portion thereof that's used for the sale of gasoline and oil or any other motor vehicle fuel and/or other lubricating substance. Which may or may not includes facilities for lubricating, washing, and sale of accessories, but not including the painting and/or body work thereof and other vehicle and equipment repair operations as defined by this chapter. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station.

**GENERAL STORAGE TO INCLUDE BOATS AND RVS** - A structure, enclosed on a minimum of three (3) sides constructed prior to the adoption of this ordinance, where the structure is used of storing motorized or non-motorized watercraft and/or recreational vehicles.

**GENTLEMANS FARM** - Small scale agrarian operation managed for pleasure as part of a family estate and which is not used to generate profit.

**GOLF COURSE OR COUNTRY CLUB** - A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges, include clubhouses and shag ranges, but does not include miniature golf course or golf driving ranges. Courses shall be considered "recreational facilities, private" for the purpose of this chapter.

**GOLF DRIVING RANGE** - A limited area on which golf players drive golf balls from a central driving tee, such area to include the driving tee and other incidental activities pertaining to this activity.

**GRADING** – The act of excavating and/or filling land for the purpose of changing natural slope.

**GREENHOUSE/NURSERY** - An accessory structure, typically constructed of metal or wood framework and covered with glass for plastic, used for private use.

**GREENHOUSE/LANDSCAPE NURSERY, WHOLESALE** - The retail handling of any article, substance, or commodity related to the planning, maintenance, or harvesting of garden plants, shrubs, chemicals, or other nursery goods and related products in small quantities to the consumer.

**GROCERY STORE** - Retail location for the purveying and/or selling of predominantly food stuffs and other related living essentials.

**GROSS** – A total amount.

**GROUP HOME** - The use of any lawful dwelling unit which meets all of the following criteria:

A. Involves the care of the maximum number of persons permitted by the "group home" standards of §6.4, and meets all other standards of such section.

B. Involves persons functioning as a common household.

C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap" as defined by applicable Federal law.

D. Does not meet the definition of a "treatment center."

E. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

\*NOTE: As of 1992, the Federal Fair Housing Act defined "Handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in §802 of Title 21."

\*NOTE: A use that would otherwise meet the definition of "group home" but which includes more than the permitted number of residents shall be considered an "Institutional Group Home," which is a distinct use.

**HARDWARE STORE** - retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold

**HEALTH/FITNESS CLUB** - An establishment where the principal enterprise conducted involves the provision of indoor wellness activities such as fitness training, saunas, athletic courts, and indoor swimming pools.

**HEIGHT** – The maximum height of a building and/or structure measured from the average finished grade at perimeter of the base of the building and/or structure to the highest point of such building and/or structure. For the purpose of determining the height limits in all zones set forth and shown on the official supplementary Airport Overlay Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**HOME BASED BUSINESS, NO IMPACT** - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, where as there shall be a maximum of two said accessory uses within any one dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal function to or from the premises, in excess of those normally associated with 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 a business use, including, not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business activity may not involve any illegal activity.

**HOME BASED BUSINESS, OTHER** - An activity, intended to be financially gainful, conducted within a dwelling unit, the conduct of which is clearly incidental and secondary to the use of the dwelling unit, and, whereas, there shall be a maximum of two said accessory uses within any one dwelling unit. Unlike a No-Impact Home Based Business, Home Occupations provide opportunity for on-site customers and therefore, also permit restricted signage opportunity

**HONEYBEE** – Honey bees are limited to European races of *apis mellifera*.

**HOSPITAL** - An institution providing primary health services and medical or surgical care to persons < primarily inpatients < suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. And including, as an integral part of the instruction, related facilities such as laboratories, outpatient facilities, or training facilities. (See also “health facility”).

**HOTEL** - A building used primarily for providing more than 10 transient lodging accommodations on a daily rate basis to the general public in which the lodging rooms provide no cooking facilities.

**HOUSEHOLD PET** – Domesticated species of dog, cat, or other non-exotic animal generally weighing less than 150 pounds that resides within a dwelling unit and is not raised for production of products for sale.

**IMPERVIOUS SURFACE (IMPERVIOUS AREA)** – A surface that prevents the infiltration of water into the ground. Impervious surfaces (or areas) shall include, but not be limited to: roofs; additional indoor living spaces, patios, garages, storage sheds and similar structures; and any new streets or sidewalks. Decks, parking areas, and driveway areas are not counted as impervious areas if they do not prevent infiltration.

**INDUSTRIAL PARK** - A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

**KENNEL** - Any accessory building or building or land designed or arranged for acre of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale or barter of animals.

**LAND DEVELOPMENT** –

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with § 503(1.1) of the Pennsylvania’s Municipalities Planning Code and the Municipality’s Subdivision and Land Development Code.

**LANDSCAPE BUFFER** – A use of new or existing plants, earthen mounds, fences and/or walls located between two uses, or between one use and a public right-of-way, that is intended to lessen negative impacts, such as undesirable views, noise or light.

**LANDSCAPE/NURSEY, RETAIL** - The retail handling of any article, substance, or commodity related to the planning, maintenance, or harvesting of garden plants, shrubs, chemicals, or other

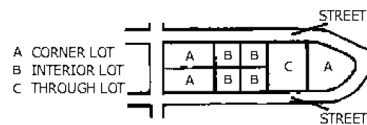
nursery goods and related products in small quantities to the consumer.

**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.

**CORNER LOT** – A lot at the junction of and abutting on two or more intersecting streets or at the point of abrupt change of a single street where the interior angle is less than 135° and the radius of the street is less than 100 feet.

**INTERIOR LOT** – A lot with only one frontage on a street.

**THROUGH LOT** – A lot with front and rear street frontage.



**LOT COVERAGE** – The portion of the lot that may be impervious. This includes, but may not be limited to, both building footprint and parking area.

**LOT LINE** – A line generally established by metes and bounds, which, when combined with other lot lines, delineates a lot.

**FRONT LOT LINE** – The line separating the lot from the street right-of-way.

**SIDE LOT LINE** – Any lines which are not front or rear lot lines.

**REAR LOT LINE** – The line parallel to or within 45° of being parallel to a street line which defines the rear of the lot.

**LOT SIZE** – The area contained within the boundary lines of a lot.

**LOT WIDTH** – The horizontal distance between side lot lines:

**LAUNDROMAT/DRY CLEANERS** - A self-service facility containing clothes washing machines and dryers which are usually coin-operated and are open for use to the general public.

**MANUFACTURING, LIGHT** - Facilities involving generally unobtrusive processes not resulting in the storage of hazardous materials or the generation of hazardous waste products, or other environmentally regulated processes. Uses producing products predominately from previously prepared materials, finished products and parts, including, but not limited to, research, engineering or testing laboratories, assembly from components, fabrication of products, textile and clothing manufacturing, warehousing, distribution centers, furniture or other wood products production and the like, but excluding basic industrial processing.

**MAUSOLEUM** - An external free-standing building constructed as a monument enclosing the interment space or burial chamber of a deceased person or people

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

**MEMBERSHIP CLUB, FRATERNITY, OR SORORITY** - A type of boarding house used and occupied by a formal, legally incorporated cooperative organization -(with each full member having a vote in the operations of the organization) of full-time college or university students. Such use may contain residential, social and eating facilities for members and their occasional guests.

**MINERAL EXTRACTION AND QUARRYING** - The removal from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. Mineral extraction includes but is not limited to the extraction of sand, gravel, topsoil, limestone, clay, coal, shale, or iron ore. The routine movement of and replacement of topsoil during construction shall not be itself considered mineral extraction. The reclamation of waste piles from mining activities conducted prior to the adoption of this ordinance shall be permitted by right in all districts and shall not be considered mineral extraction.

**MIXED USE STRUCTURE (RETAIL AND APARTMENTS)** - A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

**MOBILE STORAGE UNITS** - An area used for the storage, distribution, and sale of PODS

**MOTEL** - A building used primarily for providing more than 10 transient lodging accommodations on a daily rate basis to the general public in which the lodging rooms provide no cooking facilities.

**MPC** – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, 53 P.S. §10101 et seq., as reenacted and amended.

**MUNICIPAL/GOVERNMENT FACILITY OR USE** - Municipal, County, State or Federal government buildings or facilities designed and intended to be occupied by the government or designed and intended for public use sponsored by such governments.

**NATURE PRESERVE** - A noncommercial preservation of land for providing wildlife habitats, forests or scenic natural features that involves no buildings other than a nature education and/or study center and customary maintenance buildings.

**NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after March 15, 1982, including any subsequent improvements thereto.

**NIGHTCLUB** - A tavern or restaurant that: a) has a primary or substantial portion of the total trade in the sale of alcoholic beverages, b) frequently charges admission or cover charges for entertainment or music for dancing, c) has a capacity of more than 150 persons for such entertainment or dancing and d) Is not a "sexually oriented business."

**NONCONFORMING LOT** – A lot the area or dimension of which was lawful prior to the adoption or amendment of this zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason 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 this zoning ordinance or any 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 this zoning ordinance or any amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

**NONCONFORMITY** – Any nonconforming lot, structure or use of land or structures.

**NURSING HOME** - A facility licensed by the State for the housing and Intermediate or fully-skilled nursing care of 3 or more persons needing such care because of old age or a physical illness or disability or a developmental disability, but not including a "Treatment Center."

**OBSTRUCTION** – Any dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, floodplain or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**OFFICE, BUSINESS OR PROFESSIONAL** - A use that involves administrative, clerical, financial, governmental or professional operations and operations of a similar character. This use shall include neither retail nor industrial uses, but may include business offices, medical or dental offices, clinics or laboratories, photographic studios and/or television or radio broadcasting studios.

**OFFICE, MEDICAL OR DENTAL** - A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing practices for the examination and treatment of persons solely on an outpatient basis. Medical and dental offices do not include veterinary services or animal hospitals.

**OFF-PREMISE SIGN** - A board, panel or tablet limited in size, used for the display of posters, printed or painted advertising matter, either illuminated or nonilluminated, that directs attention to goods, merchandise, entertainment, or services offered elsewhere than the premises where the sign is located.

**OFF-STREET PARKING/LOADING ACCESSORY TO RESIDENTIAL USES** - An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

**OIL AND GAS EXTRACTION** - The removal of oil and gas resources from the ground by means of drilling, as defined herein, in accordance with a valid permit issued by the Pennsylvania Department of Environmental Protection (PA DEP) under the provisions of the PA Oil and Gas Act (58 P.S. §601.101-§602.605), as now or hereafter amended.

**OPEN SPACE** – a parcel or parcels of land incorporated within a subdivision that is used for passive and unorganized play areas. This land may include floodplain, wetlands, steep slopes, stormwater basins and drainage areas. The land set aside as open space may not be used towards calculating the parkland requirements of the development.

**OTHER ACCESSORY USES CUSTOMARILY INCIDENTAL TO PRINCIPAL USE** - Commonly occurring practice, product or process directly related to the function of the principal use



**OUTDOOR STORAGE OF GOODS** - An area or facility storing or offering for sale building supplies, metal supplies, lumber, stone, coal, heavy equipment, feed and grain, sand and gravel, and similar goods. This term shall not include the wrecking, salvaging, dismantling, scrapping, or storage of junk vehicles.

**PARK, PRIVATE** - A tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc. for active and/or passive recreational purposes

**PARK, PUBLIC** - A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of the people

**PENNDOT** – The Pennsylvania Department of Transportation (“PennDOT”), the Commonwealth agency responsible for overseeing and administering transportation laws and regulations within Pennsylvania.

**PENNSYLVANIA MUNICIPALITIES PLANNING CODE** – Act of July 31, 1968, P.L. 805, No. 247, as reenacted and amended, 53 P.S. § 10101 et seq.

**PERSONAL SERVICE ESTABLISHMENT** - An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barber and beauty shops, State-licensed massage therapists, photography studios, shoe repair shops, household appliance repair shops, and other similar establishments, but shall not include any "adult uses."

**PLACE OR WORSHIP/ASSEMBLY** - Building, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes. A place of worship may include two (2) dwelling units as an accessory use to house full-time religious leaders and their families. If a religious use is primarily residential in nature, it shall be regulated under the appropriate "dwelling type."

**PLANNING COMMISSION** – The South Abington Township Planning Commission, Township of South Abington, Pennsylvania.

**PORCH** – A covered entrance to a building or structure which may or may not be enclosed and which projects out from the main wall of such building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**PRIVATE** – Not publicly owned, operated or controlled.

**PUBLIC** – Intended for the general population to partake or participate.

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

**PUBLIC PARKING** - An open space, other than a street or way, used for the parking of only automobiles.

**RAISING OF LIVESTOCK, SMALL-SCALE** - The raising or keeping of livestock at a limited scale for home use or any commercial purpose.

**RECREATION FACILITY, PRIVATE** - A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities. Classified as a Recreational Facility, Private.

**RECREATION FACILITY, PUBLIC** - Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Township, County, school district, state, or federal government.

**RECYCLING, SMALL SCALE** - A building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products, limited in scale, less than X

**RELEASE** – The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more Regulated Substances upon or into any land or water within the Source Water Protection Overlay District. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, swale, drainage way.

**REPAIR** – To restore by replacing parts or putting together what is torn or broken. Repair can be defined as an accessory or principal use.

**RESEARCH AND DEVELOPMENT FACILITY** - An animal feeding operation with more than 1000 animal units confined on site for more than 45 days during the year.

**RESTAURANT** - An establishment where food and drink is prepared, served and consumed primarily within the principal building.

**RESTAURANT CAFÉ** - An establishment where limited options of food and drink are prepared, served and consumed

**RESTAURANT, CARRYOUT** - An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a “standard restaurant.”

**RESTAURANT, DRIVE THROUGH/DRIVE-IN** - An establishment that sells ready-to-consume food or drink where at least a portion of patrons are served while the patrons remain in their motor vehicles.

**RETAIL ESTABLISHMENT** - A use in which merchandise is sold or rented to the general public, but not including the following: sales of motor vehicles or boats, adult movie theater, adult bookstore, manufacturing, tavern, car wash, auto service station, auto repair garage, convenience store or any restaurant.

**RIDING ACADEMY AND STABLES** - An establishment where horses are kept for riding or driving, or are stabled for compensation, or incidental to the operation of any club, association, ranch, or similar establishment.

**RIGHT-OF-WAY** – A corridor of land set aside for use, in whole or in part, by a street or other public purpose.

**SATELLITE DISH/ANTENNA** - A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure. A satellite antenna shall be considered an accessory structure for the purposes of this Ordinance

**SCHOOL, COMMERCIAL** - A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under age sixteen (16). This shall include a dancing school, martial arts school or ceramics school.

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

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

**SEDIMENT** – Soil materials transported by wind or water as a result of erosion.

**SELF-STORAGE FACILITY** - A building or buildings containing separated spaces to be leased or rented to individuals and/or business for the storage of personal belongings, goods or supplies.

**SHADOW FLICKER** – The on and off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.

**SHOOTING/ARCHERY RANGE, INDOOR** - Any fully enclosed building used for the discharge of any firearm for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor shooting range for the purposes of this Zoning Ordinance.

**SHOOTING/ARCHERY RANGE, OUTDOOR** - A specialized facility designed for firearms qualifications, training or practice.

**SHOPPING CENTER OR MALL** - A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

**SHRUB** – An ornamental plant with woody stems that is at least 2 gallons in depth at planting. See the Township's official plant list for a listing of permitted shrubs.

**SMALL SCALE GROCERY** - A grocery store with a total floor area of 12,000 square feet or less.

**SMALL SCALE RETAIL** - A retail establishment with a total floor area of 5,000 square feet or less.

**SOLAR ENERGY** – Radiant energy (direct, diffuse and/or reflective) received from the sun.

**SOLAR ENERGY DEVICE** - A system, structure, or device accessory to a principal use which is used to collect, store, and distribute energy derived from the sun for the purpose of heating or cooling the interior spaces of buildings or for heating domestic hot water. Small solar energy systems may include, but are not limited to, solar collectors, solar reflectors, heat storage tanks, south facing double glazed window walls, attached south facing greenhouses utilizing double glazing, and architectural overhangs for blocking sunlight on south facing windows.

**SOLAR RELATED EQUIPMENT** – Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used or intended to be used for collection of solar energy.

**SOLAR SYSTEM, BUILDING AND/OR GROUND-MOUNTED** – A system, structure, or device accessory to a principal use which is used to collect, store, and distribute energy derived from the sun for the purpose of heating or cooling the interior spaces of buildings or for heating domestic hot water. Small solar energy systems may include, but are not limited to, solar collectors, solar reflectors, heat storage tanks, south facing double glazed window walls, attached south facing greenhouses utilizing double glazing, and architectural overhangs for blocking sunlight on south facing windows.

**SQUARE** – A spatially defined element of usable open space designed such that it directly abuts streets on two or more sides. Squares may be located throughout the required open space of a community in a manner which enhances the form, appearance and function of this element of the community. Landscaping and lighting must be provided to augment the function of this feature within the open space network.

**SPA**- A place or building where active exercise and related activities are preformed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Also, a place or building that provides massage, exercise, and related activities with or without such equipment or apparatus

**STABLES** - An establishment where horses are kept for riding or driving, or are stabled for compensation, or incidental to the operation of any club, association, ranch, or similar establishment.

**STORAGE** – A space or place for storing materials and supplies for use by the principal use located on the same site. Includes the storage of goods which were produced on site. Storage is accessory to the principal use on the site.

**STREAM** – A watercourse. Most streams are shown on the U.S.D.A. Soil Conservation Service "Soils Survey of South Abington" mapping or as watercourses shown on a U.S.G.S., 75 minute quadrangle map as solid blue lines or as state open waters identified in a letter of interpretation issued by the Pennsylvania DEP. Streams are also shown as blue lines on the most recent Streams Within South Abington, U.S.G.S. National Hydrologic Dataset (NHD) mapping as noted in attached Appendix E.

**STREET** – Includes a street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other way used or intended to be used by vehicular traffic or pedestrians, whether public or private. Streets are further classified according to the functions they perform:

**STRUCTURE** – An object, including a mobile object, includes without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmissions lines.

**STUDIO OR SCHOOL FOR SPECIAL TRAINING** - An establishment where arts such as dance, martial arts, music and visual arts are taught, studied or produced, or where movies, radio, television or music recording is produced.

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

**SUBSTANTIAL CHANGE** – (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 20 feet for structures located outside of the rights-of-way, or 10 feet for structures located within the rights-of-way, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; 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.

**TASTING ROOMS** - A room or rooms open to the general public, primarily used for the retail marketing of beverage-related products controlled by the PA Liquor Control Board. Merchandise offered for sale within the tasting room may also include souvenirs and clothing bearing the logo of the business, as well as related items and other products that reflect or enhance the character or theme of the product(s). Rooms where wine tasting occurs, where beverage tasting is part of the normal business practice in the wholesale marketing of beverage products and that are not open to the public are not considered tasting rooms.

**TATTOO PARLOR** - Any establishment, place of business, or location wherein the procedure of inserting permanent markings or coloration upon or under human skin is practiced through including artistic tattoo parlors and any establishment conducting cosmetic tattooing where tattooing is engaged in or where the business of tattooing is conducted or any part thereof.

**TEMPORARY USE** – A use lasting for a limited time of seven days or less, unless specified as longer under a particular use. Does not include the construction or alteration of any structure.

**TOWNSHIP** – The Township of South Abington, Commonwealth of Pennsylvania.

**TOWNSHIP ENGINEER** – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for South Abington Township.

**TRADITIONAL NEIGHBORHOOD DEVELOPMENT** - A district that encourages mixed-use , compact development that is sensitive to the environmental characteristics of the land and facilitates the efficient uses of services.

**TRAILS** - A way designed for and used by equestrians, pedestrians, and cyclists using non-motorized bicycles

**TRUCK STOP** - Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles, A truck stop also may include overnight accommodations and restaurant facilities solely for the use of truck crews.

**TRUCK/FREIGHT TERMINAL** - A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation

**UTILITY** – A corporation, enterprise, government entity or persons generating, transmitting, distributing, transporting and/or collecting in any manner, electricity, heat, steam, natural gas, propane, water, wastewater, or communications (cable, telephone and fiber optic) to the public, or any portion thereof.

**VARIANCE** – A permissive waiver of terms and conditions of this chapter issued by the Zoning Hearing Board.

**VEHICLE OR EQUIPMENT SALES** - The use of any building, land area or other premise for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles; or farm or construction equipment including any warranty repair work and other repair service as an accessory use. No business or facility which generates less than fifty (50) percent of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described (excluding parts and repairs) shall be considered a vehicle and equipment sales operation

**VEHICLE REPAIR GARAGE** - An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

**VIOLATION** – The act of not meeting specific conditions or requirements of this Chapter.

**WAREHOUSE** - Terminal facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field and used for the storage of good and materials.

**WASTEWATER TREATMENT PLANT** - The ultimate disposition of unwanted or discarded materials from households and businesses, including garbage

**WHOLESALE ESTABLISHMENT** - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY CONVERSION SYSTEM (WEC)** – Any device which converts wind energy to a form of usable energy.

**WIND GENERATOR** – Equipment that converts energy from the wind into electricity. Includes the rotor, blades, and associated mechanical and electrical conversion components necessary to

generate, store, and/or transfer energy.

**WINERIES/TASTING FACILITIES** - Licensed facilities used for the commercial processing of grapes or other fruit products to produce wine or similar spirits or the refermenting of still wine into sparkling wine.

**WIRELESS COMMUNICATIONS ANTENNA** - A structure other than a building, such as a monopole or guyed tower, designed and used to support one (1) or more wireless communications antennas.

**WIRELESS COMMUNICATIONS TOWER** - A structure other than a building, such as a monopole or guyed tower, designed and used to support one (1) or more wireless communications antennas.

**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 non-tower based wireless communications facility if approved by the Township.

**YARD** – An unoccupied space, open to the sky, extending from the lot line to a structure. The size of a required yard shall be measured as the shortest distance between the structure and lot line.

**FRONT YARD** –An open space area extending along the full width of a lot parallel to the front property line or adjacent street right-of-way line, whichever is the closer to the property, which area is unoccupied and obstructed from the ground up, except for such intrusions as are expressly permitted by this Chapter.

**SIDE YARD** – An open space area extending along the side of a lot parallel to the side lot line, which area shall extend from the front yard area to the rear yard area, except that in the absence of a rear or front yard area the side yard area shall extend the full length of the lot.

**REAR YARD** – An open space area extending across the full width of a lot parallel to the rear property line or adjacent street right-of-way line, whichever is closer to the property, which area is unoccupied and unobstructed from the ground up, except for such intrusions as are expressly permitted by this Chapter.

**BUFFER YARD** – An open space inclusive of vegetation and designed to provide an area of separation between different districts or uses.

**YARD SETBACK AREA** – An area bounded by a lot line and a line drawn parallel to the lot line at a distance specified in the ordinance for front, side or rear yard setbacks.

**ZONING DISTRICT** – A finite area of the Township, as designated by its boundaries on the Zoning Map, throughout which specific and uniform regulations govern the use of land and/or the location, size and use of buildings and structures. The regulations of a zoning district may be supplemented or altered by regulations imposed in an overlay zoning district.

**ZONING HEARING BOARD** – The Zoning Hearing Board of South Abington.

**ZONING MAP** – The map setting forth the boundaries of the districts of this chapter and adopted by the Board of Supervisors of the Township

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## ARTICLE 3 District Regulations and Zoning Map

### Section 3.1 – Designation and Intent of Districts

#### A. Zoning Districts and Purpose Statements.

For the purpose of this Ordinance, South Abington Township is hereby divided into districts which shall be designated on the Zoning Map and as follows:

1. Agricultural/Conservation/Recreational Districts.
  - (a) **CONSV – Conservation District:** To conserve areas of unique natural beauty or low-impact recreation, or in which accessibility is difficult or constrained by topography, and to protect open spaces, environmentally sensitive areas, and natural features such as steep slopes, forests, and water courses.
  - (b) **REC – Planned Recreation District:** To provide appropriate locations for active and passive recreation uses of regional significance and the infrastructure needed to support such activities.
2. Residential Districts.
  - (a) **R-6 – Suburban Single Family Residential District:** To arrange for low-density neighborhoods of single-family detached dwellings, largely serviced by public sewer and water.
  - (b) **R-8 – Town Single Family Residential District:** To accommodate medium-density neighborhoods of single-family attached and detached dwellings, typically on local streets and with private driveways.
3. Commercial Districts.
  - (a) **SC – Suburban Center:** To establish a zone of regional-scale commerce accommodating for higher volumes of automobile-oriented traffic.
  - (b) **PC – Planned Commercial District:** To permit areas for master-planned retail, dining, lodging, entertainment, and other commercial activities, including shopping centers and developments of multiple buildings on one lot.
4. Industrial Districts:
  - (a) **LI – Light Industrial District:** To arrange for locations accommodating less intense industrial land uses such as light manufacturing, small-scale warehousing, research/testing facilities, and supporting offices.

#### B. Overlay Districts and Purpose Statements.

See Article 4 of this Ordinance for the designation and intent of the overlay districts.

**Section 3.2 – Zoning Map**

- A. The boundaries of the districts in which South Abington Township is divided shall be shown upon a map entitled the “South Abington Township Zoning Map,” which is available on file for public viewing at the South Abington Township Municipal Building. This map and all notations, references, and other data shown thereon is hereby incorporated by reference into this Ordinance as if these items were fully described herein.
- B. Whenever there has been an amendment to the boundary of a zoning district or overlay or a reclassification of a zoning district or overlay, the Zoning Map shall be accordingly revised and shall be duly certified by the Township.

**Section 3.3 – Interpretation of District Boundaries**

District boundary lines as a general rule follow lot lines, municipal boundary lines, and the centerlines of streets, highways, and alleys. Where uncertainty exists as to the boundaries of districts on the Zoning Map, the Zoning Officer shall interpret the locations of the boundaries based on the following rules:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be constructed a following such lot lines.
- C. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
- D. Boundaries indicated as approximately following railroad lines shall be construed as following the center line of a single-track railroad line or an imaginary line drawn midway between the main tracks of a multiple-track railroad line.
- E. Boundaries indicated as approximately following shorelines shall be construed as following such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline.
- F. Boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines. In the event of change in the stream or other body of water, the boundary shall be construed as moving with the center line of such.
- G. Boundaries indicated as approximately parallel to or extensions of features identified in subsections A through F above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- H. Where physical features existing on the ground are alleged to be at variance with those shown on the Zoning Map or in other circumstances not covered by subsections A through G above, it shall be the function of the Zoning Officer to interpret the Zoning Map.

- I. Where one (1) or more district boundary lines divides a lot held in single ownership, the regulations of the district comprising the greater proportion of the lot shall apply.

#### **Section 3.4 – District Quick Views**

The subsections included herein provide the following information about each zoning district designated in Section 3.1:

- A. Table of Principal Use Regulations (organized by land use group);
- B. Table of Accessory Use Regulations;
- C. Dimensional Regulations for Lots and Buildings;
- D. Preferred Lot Configurations; and
- E. Other Requirements.

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## ARTICLE 4 Overlay Regulations

### Section 4.1 – Access Management Overlay

A. Purpose.

The Access Management Overlay requirements are intended to provide land use and development controls along specified high-traffic corridors, including U.S. Route 6 and U.S. Route 11, as an overlay that is supplemental to the underlying zoning district regulations. If a conflict exists between the regulations of this Section and the underlying zoning district regulations, the more restrictive requirements shall apply. All land designated herein as part of the Access Management Overlay shall be subject to the requirements of this Section regardless of which underlying zoning district said land is located.

B. Provisions.

1. Interconnection of Off-Street Parking Areas.

To reduce traffic congestion and the number of curb cuts along public streets, parking areas shall be connected to adjacent parcels, via internal access drives. The intent is to provide secondary points of access in a grid pattern in the Access Management Overlay. Where a parking area is constructed and is adjacent to an undeveloped nonresidential parcel, the access drive shall be extended to the lot line for connection by future uses.

2. Reduction of Access Points.

(a) The use of shared access points is strongly recommended. Where possible, two adjacent lots may share ingress and egress points to serve both uses rather than solely the use on the lot where the ingress/egress point is located. This model will decrease the number of curb cuts and create safer and more efficient arterial streets within the Access Management Overlay.

(b) When adjacent lots are consolidated, only one (1) access point/curb cut shall be retained for the consolidated lot. Any existing access point/curb cut beyond the one retained shall be abandoned.

(c) The provision of joint access shall be subject to the creation of an easement with the deed allowing cross-access between the two lots. The joint access arrangements shall include a recorded joint agreement with the deed defining the maintenance responsibilities of each of the property owners served by the access road.

3. Access to Different Types of Streets.

(a) Access to lots abutting collector and local streets shall be provided from those streets. Such lots shall not be permitted to have more than one (1) access point from and onto an arterial street per 500 feet of lot frontage.

- (b) Each lot with less than 250 feet of frontage on an arterial street within the Access Management Overlay shall have not more than one (1) access point from and onto such street involving left-hand turns, and no lot with 250 or more feet of total frontage on an arterial street shall have more than two (2) access points from and onto such street involving left-hand turns. If a lot has more than one (1) access point, the separation distance between access points should be maximized and in no case shall be under 100 feet, where reasonable considering other traffic safety concerns.
  - (c) The minimum distance to be provided between access points and a street intersection on the same and/or opposite side of the following types of streets (as measured from center line to center line) shall be provided as follows:
    - (1) From an intersection with an arterial street: 300 feet required;
    - (2) From an intersection with a collector street: 200 feet required; and
    - (3) From an intersection with a local street: 100 feet required.
4. Large-Scale Developments.

Developments consisting of three (3) or more principal structures shall make use of a carefully coordinated interior street system, subject to the following provisions:

- (a) Each principal building shall have its main vehicle access onto a common parking lot, access drive, service road, marginal access street, or other alternative method approved by the Township, which shall then provide access to arterial or collector streets.
- (b) Vehicle access shall be provided to each use without causing congestion to, hazards upon or interference with traffic movement on public streets.
- (c) All access to outparcels of a development shall be provided using internal access drives. Separate access to outparcels from arterial streets shall be prohibited.

#### **Section 4.2 – Floodplain Overlay**

All regulations as required by the US Federal Emergency Management Agency and Lackawanna County shall apply to identified flood-designated lands within the Township. Refer to the Township Floodplain Management Ordinance.

#### **Section 4.3 – Airport Hazard Overlay**

A. Purpose.

The purpose of the Airport Hazard Overlay is to designate an area that considers safety issues around Wilkes-Barre/Scranton International Airport and to address requirements of the Pennsylvania State Aviation Code and Federal Aviation Regulation No. 77 limiting building and structural height in “airport hazard areas.” These height restrictions are

designed to prevent any encroaching that would interfere with or obstruct normal airplane approaches or airport operations. Such interference or obstruction would pose a threat to the health, safety, welfare, and convenience to residents of South Abington Township as well as passengers aboard aircraft. The Airport Hazard Overlay is used to impose needed height restrictions as a zoning overlay, thereby enhancing public safety.

**B. Extent of the Airport Hazard Overlay.**

The land and airspace covered by the Airport Hazard Overlay are described in Subsection D.1 and shall directly correspond to such primary, approach, transitional, horizontal, and conical zones bound by the green lines depicted on the Part 77 Surface Overlay map for Wilkes-Barre/Scranton International Airport, available from the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation. If any doubt exists as to the extent of the Airport Hazard Overlay over a particular lot or portion of a lot, the provisions of the Airport Hazard Overlay shall apply.

**C. Relation to Other Activities and Zoning Districts.**

The Airport Hazard Overlay is an overlay district that only regulates the height of buildings and structures. The underlying zoning district shall prescribe all other zoning-related standards and uses imposed upon any lands within South Abington Township. In those instances where the Airport Hazard Overlay prescribes a maximum height limitation more restrictive than that specified elsewhere in this Ordinance, the more restrictive standard shall apply. The Airport Hazard Overlay shall not modify the boundaries of any underlying zoning district.

**D. Use Regulations.**

**1. Maximum Height Permitted.**

The maximum permitted height of a proposed building, structure, object, or alteration of land shall be equivalent to the vertical height from the ground surface to the slope of the relevant approach zone as calculated below, or the maximum permitted height in the underlying zoning district, whichever is lower.

- (a) Visual Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (b) Nonprecision Instrument Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (c) Visual Larger-Than-Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

- (d) Nonprecision Instrument Larger-Than-Utility Runway with a Visibility Minimum Greater than 3/4 Mile Approach Zone – slopes 34 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (e) Nonprecision Instrument Larger-Than-Utility Runway with a Visibility Minimum As Low As 3/4 Mile Approach Zone – slopes 34 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (f) Precision Instrument Runway Approach Zone – slopes 50 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each one (1) foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- (g) Heliport Approach Zone – slopes eight (8) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.
- (h) Transitional Zones – slopes seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport). In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.
- (i) Heliport Transitional Zones – slope two (2) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90-degree angles to the primary surface centerline and heliport approach zone centerline.
- (j) Horizontal Zone – established at 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport).
- (k) Conical Zone – slopes 20 feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport) and extending to a height of 350 feet above the airport elevation.

2. Other Use Restrictions.

Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water in such a manner as to create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft.

**E. Zoning Permit Requirements.**

1. A zoning permit shall be required for the proposed erection, extension, or alteration of any structure or portion thereof or any object (natural or manmade), within the Airport Hazard Overlay.
2. Prior to the issuance of any zoning permit, the Zoning Officer shall review the application for the zoning permit to determine if all other necessary government permits required by state and federal laws have been obtained.
3. Prior to applying for a zoning permit and at least 30 days prior to commencing the permit action, the applicant shall notify the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation, by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal. The Bureau of Aviation's response must be included with the zoning permit application for it to be considered complete.
4. If the Bureau of Aviation returns a determination of penetration of airspace, the applicant may seek a variance from the regulations by filing an appeal, as prescribed in Subsection F.

**F. Variances.**

1. Variance requests shall be made on the forms provided by the Township and shall be in accordance with § 910.2 of the Pennsylvania Municipalities Planning Code (MPC) and Section 10.3 of this Ordinance.
2. All requests for a variance shall include documentation in compliance with Federal Regulation Title 14 Part 77 Subpart B (FAA Form 7460-1, as amended or replaced).
3. Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation, as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. In particular, the Zoning Hearing Board shall consider which of the following determination categories the FAA has placed the proposed erection, extension, or alteration in:
  - (a) No Objection – the subject construction/alteration is determined not (to) exceed obstruction standards and marking/lighting is not required to mitigate potential hazard;
  - (b) Conditional Determination – the proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated; or



- (c) Objectionable – the proposed construction/alteration is determined to be a hazard and is thus objectionable.
- 4. Any variance or zoning permit granted pursuant to the provisions of this Subsection may be conditioned, according to the process described herein, to require the owner of the building, structure, or natural growth in question or the person requesting the variance to install, operate, and maintain such marking or lighting as deemed necessary to assure both air and ground safety.
- G. Violations, Penalties, and Remedies.

Violations, penalties, and remedies shall be subject to the provisions of Section 11.4.

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**ARTICLE 5  
Supplementary Regulations**

**Section 5.1 – Requirements for All Uses**

A. Application of District Regulations.

1. Unless otherwise provided by law or specifically in this Ordinance, no land, building, or structure shall be used or occupied except for a use permitted in the zoning district within which the land, building, or structure is located.
2. The regulations set forth in this Ordinance shall apply uniformly to each class or type of land, building, or structure, except as otherwise provided for in this Ordinance.
3. No building or structure shall hereafter be erected, constructed, reconstructed, moved, or structurally altered and no building, structure, or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations of this Ordinance specified for the use and district in which it is located. These include, for example, regulations for height, lot area, floor area, yard dimensions, and residential density.
4. No part of a yard or other open space or off-street parking or loading space required in connection with any use for the purpose of complying with this Ordinance shall hereafter be included or shared as part of a yard, open space, or off-street parking or loading space similarly required for any other use, unless otherwise specified by this Ordinance.
5. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
6. No more than one (1) principal use shall be permitted on a lot, unless otherwise specified by this Ordinance.

B. Buffers and Setbacks Across Municipal Boundaries.

If a lot, use, or structure extends across municipal boundaries, the buffer yard and setback requirements of this Ordinance shall still apply.

C. Annexed Territory.

All territory which may hereafter be annexed by the Township shall be automatically included in the district which most nearly corresponds to the zoning classification of the land at the time of annexation, unless otherwise specified in the ordinance of annexation.

**Section 5.2 – Deviations from Dimensional Requirements**

A. Lot Size Reduction.

No lot shall be reduced in size or otherwise altered so that any nonconformity with this Ordinance or any other applicable ordinances shall be created. This Section, however, shall not prohibit lot size reductions when such reduction is the result of conveying a portion of a lot to a government, government agency, or public utility for public purposes in an easement or a taking.

B. Permitted Encroachments in Required Yard Areas.

The following encroachments are permitted in required yard areas, provided that they do not cause the maximum impervious surface area or lot coverage to be exceeded beyond what is permitted for a lot in the underlying zoning district or are required by law for the purpose of public safety:

1. Light fixtures, other than lighting poles for recreational uses;
2. Sidewalks or walkways on grade;
3. Sidewalk or walkway steps, when not connected to a building, porch, deck, or other part of a building or structure or when required by law;
4. Handrails along sidewalk or walkway steps;
5. Access drives;
6. Parking spaces for dwellings having three (3) or fewer dwelling units or for uses and/or districts otherwise exempted by this Ordinance;
7. Roof overhangs, egress window wells and doors, HVAC equipment, and emergency power generators, up to a maximum dimension of two (2) feet measured horizontally;
8. Flagpoles of the display of official government flags of the United States and its political subdivisions, provided that such flagpoles do not exceed the maximum height limitations specified in Subsection C;
9. Vegetation, including trees, landscaping, and vegetative buffering, provided that a clear sight triangle is maintained at intersections of public rights-of-way and/or public rights-of-way with private driveways;
10. Landscaping materials, excluding patios, decks, and porches not otherwise exempted by this Ordinance;
11. Outdoor seating areas permitted under the provisions of Section 5.15;
12. Awnings and canopies specifically permitted under the provisions of this Ordinance;
13. Decorative lawn ornaments and walls not exceeding 32 inches in height;
14. Bird feeders;
15. Stormwater management facilities not designed to retain a permanent standing pool of water;

16. Traffic control devices required by a government or government agency;
17. Structures required for maintaining the safe passage of vehicular or pedestrian traffic;
18. Utility structures not exceeding seven (7) feet in height, including emergency call stations, other than wireless communication facilities;
19. Railroad sidings;
20. Public transit stops involving surface improvements and shelters;
21. Containers for the collection by municipal authorities of residential solid waste, recyclables, or compost;
22. Functional rain barrels holding less than 65 gallons that are connected to a roof downspout system of a building or structure; and
23. Public bicycle racks, benches, planters, and similar public street furniture.

**C. Maximum Height Exceptions.**

1. The following structures, when erected with a principal or accessory building roof, may exceed the permitted height of the associated building by 50%, provided that in no situation shall structures associated with buildings of 100 feet in height or taller extend 25 feet vertically beyond the roof of the associated building:
  - (a) Chimneys;
  - (b) Spires;
  - (c) Belfries, steeples, minarets, and other similar structures associated with places of worship/assembly;
  - (d) Cupolas and domes;
  - (e) Silos associated with agricultural uses;
  - (f) Flagpoles;
  - (g) Utility poles, masts, and towers;
  - (h) Antennas, other than satellite antennas and antennas associated with wireless communication facilities;
  - (i) Skylights;
  - (j) Tanks; and
  - (k) Penthouses for housing mechanical equipment.

2. The following freestanding structures are permitted to exceed the maximum height limitations specified in this Ordinance:
  - (a) Utility poles, masts, and towers associated with a public utility under the jurisdiction of the Pennsylvania Public Utility Commission, when found by the Zoning Hearing Board to not adversely affect public health, safety, and welfare or the use and value of adjacent lots and when the applicant can demonstrate a public need for such structures that cannot be accommodated if the structures were not constructed to exceed the maximum height limitations of the underlying zoning district; and
  - (b) Flagpoles of the display of official government flags of the United States and its political subdivisions, provided that such flagpoles do not exceed the maximum height limitations for the underlying zoning district by greater than 25 feet.

### **Section 5.3 – Stormwater Management**

All stormwater management regulations as required by the Commonwealth of Pennsylvania and Lackawanna County shall apply to lands within the Township. Refer to the Township's Subdivision and Land Development Ordinance.

### **Section 5.4 – Grading and Erosion Control**

All grading and erosion control regulations as required by the Commonwealth of Pennsylvania and Lackawanna County shall apply to lands within the Township. Refer to the Township's Subdivision and Land Development Ordinance.

### **Section 5.5 – Slope Control**

All slope control regulations as required by the Commonwealth of Pennsylvania and Lackawanna County shall apply to lands within the Township. Refer to the Township's Subdivision and Land Development Ordinance.

### **Section 5.6 – Buffer Areas and Screening**

#### **A. Applicability.**

1. Nonresidential Uses Abutting Residential Uses or Districts.
  - (a) When a nonresidential use is established which abuts a Residential District or a residential use, a landscaped buffer shall be established on the site of the nonresidential use immediately adjacent to and parallel to the residential use.
  - (b) The nature of the buffer area(s) permitted for the nonresidential use is specific to the zoning district of the use but includes one or more of the buffer area classes established in Subsection B. When more than one buffer area class is listed for a zoning district, any of the listed alternatives may be provided to satisfy the buffer area requirement.

- (c) When the width of a required buffer area is in conflict with the minimum yard requirements for the zoning district, the greater distance shall apply.
- 2. Parking Lots Abutting Public Streets.
  - (a) When a parking lot containing five (5) or more parking spaces abuts a public street right-of-way, a landscaped buffer shall be established in the yard setback area between the parking lot and the public street.
  - (b) The nature of the buffer area(s) permitted is specific to the zoning district of the use associated with the parking lot but includes one or more of the buffer area classes established in Subsection B. When more than one buffer area class is listed for a zoning district, any of the listed alternatives may be provided to satisfy the buffer area requirement.
  - (c) When the width of a required buffer area is in conflict with the minimum yard requirements for the zoning district, the greater distance shall apply.

**B. Buffer Area Classes.**

The following classes of buffer areas are hereby established and made reference to throughout this Ordinance whenever a buffer area is specifically required:

- 1. Class A Buffer Area:
  - (a) The depth shall be dependent on the yard requirement for the zoning district but shall not be less than 25 feet.
  - (b) The buffer area shall consist of an earthen berm between three (3) feet and seven (7) feet high, with slopes not greater than three (3) feet horizontal to one (1) foot vertical.
  - (c) The buffer area shall include the following density of trees and shrubs located on the top or street side of such berm, per 100 linear feet of buffer area:
    - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and
    - (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.
- 2. Class B Buffer Area:
  - (a) The depth shall be dependent on the yard requirement for the zoning district but shall not be less than 15 feet.
  - (b) The buffer area shall include the following density of trees and shrubs, per 100 linear feet of buffer area:
    - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and

- (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.
  3. Class C Buffer Area:
    - (a) The depth shall be dependent on the yard requirement of the zoning district but shall not be less than five (5) feet.
    - (b) The buffer area shall the following density of trees and shrubs, per 100 linear feet of buffer area:
      - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and
      - (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.
    - (c) In lieu of a buffer area with trees, an opaque or ornamental fence meeting the dimensional, material, and transparency requirements of Section 5.8 and/or a decorative or retaining wall of up to four (4) feet in height may be utilized together with the shrub requirements found in Subsection (b), if authorized by the South Abington Township Board of Supervisors upon recommendation by the Planning Commission.
  4. Class D Buffer Area:
    - (a) This buffer area class shall apply to situations in which the minimum yard requirement of the zoning district is less than five (5) feet, if applicable.
    - (b) The buffer area shall include an opaque or ornamental fence meeting the dimensional, material, and transparency requirements of Section 5.8.
    - (c) If 20 or more parking spaces face the buffer area, a continuous row of evergreen shrubs shall be planted alongside the fence to provide a year-round visual screen capable of acting as a barrier to light beams emanating from the headlights of motor vehicles.
- C. Buffer Area Planting Requirements.
  1. All plantings within buffer areas shall be adhere to the following measurements at the time of installation:
    - (a) Deciduous shade trees shall have a minimum trunk diameter of two (2) inches, as measured six (6) inches above the root collar.
    - (b) Evergreen trees shall be at least six (6) feet tall.
    - (c) Shrubs shall be at least two (2) feet in height.
  2. Trees, shrubs, and groundcovers shall be planted in accordance with accepted conservation practices.

- D. Existing Trees in Buffer Areas.
1. Where trees of a minimum of two (2) inches in trunk diameter measured six (6) inches about the root collar already exist within a required buffer area, such trees shall remain undisturbed, except that diseased or dead material may be removed.
  2. Healthy existing trees retained within a buffer area may be credited toward buffer area requirements when such trees are shown on approved plans and are adequately protected during construction.
- E. Maintenance and Protection of Buffer Areas.
1. All required landscape buffer areas, including plantings and fences, shall be protected from encroachment by motor vehicles by installation of curbs, wheel stops, or other features separating the buffer area from the areas improved for vehicle parking or circulation.
  2. It shall be the continuing responsibility of the landowner or lessee to assure the continued growth of all required landscaping and/or to replace diseased or dead landscaping. Fences must also be continually maintained and replaced when damaged. Failure to replace required landscaping or fencing shall be a violation of this Ordinance and shall be subject to the enforcement provisions in Article 11 and in any other applicable ordinance.

### **Section 5.7 – Landscaping and Tree Preservation**

- A. Landscaping Requirements.
1. General Requirements.
    - (a) Required buffer areas shall be reserved solely for open space and landscaping. No proposed building addition, structure, parking area, or any other type of physical land improvement shall be located in a required buffer; provided, that driveways or roads may cross required buffers if necessary to provide access to the building site. Sidewalks, bikeways, and pedestrian paths may also be located within required buffers.
    - (b) Selected trees and shrubs shall not include invasive plants as determined by the Pennsylvania Department of Conservation and Natural Resources (DCNR).
    - (c) All landscaping, trees, and planting materials adjacent to parking areas, loading areas, or driveways shall be properly protected by barriers, curbs, or other means from damage by vehicles. In addition, the tree or shrub shall be planted a minimum of three (3) feet from any curb.
    - (d) Plant materials with seasonal diversity should be selected and distributed throughout the site where possible.
    - (e) No tree, shrub, fence, wall or similar item shall be installed in the sight triangle of any corner, street intersection, or accessway intersecting a public right-of-way



that would cause an obstruction to visibility.

2. Landscaping Plan Requirements.

When a site or land development plan requires the installation of landscaping, a landscaping plan shall be submitted along with the site or land development plan, subject to the following requirements:

- (a) The location of all buffer yards and planting areas shall be graphically depicted.
- (b) The plan must graphically depict the distribution, mature height, and spread of all required plant materials.
- (c) The plan must show a table which identifies the required and proposed number of each plant species being provided for each type of buffer, screen, or other use. The table shall also identify the scientific and common name of each plant, the mature height and spread, and the symbol used for the plant.

3. Planting Standards.

All landscape material planted shall meet or exceed the following standards at the time of planting:

- (a) All deciduous shade trees shall reach a height of at maturity of at least 30 feet with a spread of at least 30 feet and shall have a trunk diameter of at least two (2) inches at planting when measured six (6) inches above the ground. Deciduous shade trees are to be planted such that the majority of the canopy is located on the lot of the planting.
  - (b) All evergreen trees shall reach a minimum height of 20 feet at maturity and shall be a minimum of six (6) feet tall at planting.
4. All understory trees shall reach a minimum height of 10 feet at maturity and shall have a trunk diameter of 1.5 inches at planting. See the Township's official plant list for a listing of permitted understory trees.
  5. All deciduous or evergreen shrubs used for screening purposes shall reach a minimum height of five (5) feet at maturity and shall be at least three (3) feet tall at planting.
  6. All deciduous or evergreen shrubs used for general or parking lot landscaping must be a minimum of two (2) gallons at planting.
  7. Where plantings would result in an inappropriate or impractical design due to underground utilities, overhead wires, or other factors, the following substitutions may be made:
    - (a) Two (2) understory trees meeting the requirements of Subsection 4 above may be substituted for one (1) deciduous shade tree.
    - (b) Two (2) evergreen trees may be substituted for one (1) deciduous shade tree.

(c) One (1) deciduous shade tree may be substituted for five (5) shrubs.

8. Maintenance Requirements.

(a) The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials and screening fences or walls to maintain conformance with landscaping requirements.

(b) Any plant material that is 50% dead or more shall be considered dead and must be replaced.

(c) Replacements shall be of the same size and type of plant as shown on the landscaping plan.

(d) All landscaped areas shall be kept free of litter and trash.

B. Preservation of Existing Vegetation.

Preservation of existing trees or groves of three (3) or more trees with a trunk diameter (caliper) of at least four (4) inches when measured at breast height shall enable an applicant to obtain credit toward lot coverage requirements. For every additional tree beyond the three (3) trees preserved, the square footage of the critical root zone circumference of the grove of trees preserved may be used to determine credit toward impervious surface requirements, up to a 15% increase in additional impervious surface beyond the base requirement.

For instance, if a one (1) acre development (43,560 square feet) is located in a part of the Township that permits a lot coverage of 30% impervious surface (13,068 square feet) and there are 50 trees of a four (4) inch caliper or greater, the following calculations would be performed to determine the minimum additional site area that may be impervious beyond the 30% base requirement:

Trunk diameter (caliper): 4 inches;

Critical root zone ratio: 1 inch of trunk diameter (caliper) for every 18 inches of critical root zone radius;

Critical root zone radius: 4 inches  $\times$  18 inches = 72 inches (6 feet);

Critical root zone (in square feet): 6 feet squared  $\times$   $\pi$  (pi) = 113 square feet;

Additional permitted impervious surface: 50 qualifying trees  $\times$  113 square feet = 5,655 square feet;

Total permitted impervious surface with credit: 13,068 square feet + 5,655 square feet = 18,723 square feet (43% impervious surface).

Note that this example development would not be able to go beyond 45% impervious surface even if there were a substantially higher number of qualifying trees preserved, as 45% is equivalent to 15% in additional impervious surface beyond the base 30% minimum requirement.

### Section 5.8 – Fences and Walls

A. Fences in Residential Districts.

Fences erected on lots in Residential Districts shall be subject to the following regulations:

1. The maximum height of a fence panel in a front yard shall be four (4) feet.
2. The maximum height of a fence panel in a side or rear yard shall be six (6) feet, except when abutting alleys, where the maximum height shall be four (4) feet.
3. The bottom of a fence panel shall not extend more than four (4) inches above the surface or ground that supports the fence.
4. Fence posts shall not extend more than eight (8) inches from the top of the fence panels.
5. No fence shall be erected at such a location as to interfere with minimum sight distance specifications for street intersections and intersections of driveways and streets as established in the adopted subdivision and land development regulations of South Abington Township.
6. Chain link fences shall not be permitted in front yards.
7. Chain link fences may only be permitted in rear and side yards if the links, posts, and mounting fixtures are vinyl clad.
8. Stockade fences shall not be permitted in front yards.
9. The Zoning Hearing Board may grant a special exception to erect fence panels on a lot in excess of the maximum height, if the applicant can demonstrate to the Zoning Hearing Board's satisfaction that due to topographical constraints or special needs related to the use of the lot in questions, fence panels of a greater height than normally prescribed are necessary. The Zoning Hearing Board shall also find that such fence panels exceeding the maximum permitted height will not have a significant negative impact on surrounding lots. The Zoning Hearing Board may attach reasonable conditions such as landscaping requirements or setback requirements when granting such a special exception.

B. Fences in All Other Districts.

Fences erected on lots in districts other than those classified as Residential Districts shall be subject to the following regulations:

1. The maximum height of a fence panel shall be ten (10) feet, except when the lot is located next to a Residential District or an alley, in which cases the maximum height shall be six (6) feet.
2. The bottom of a fence panel shall not extend more than four (4) inches above the surface or ground that supports the fence.

3. Fence posts shall not extend more than eight (8) inches from the top of the fence panels.
4. No fence shall be erected at such a location as to interfere with minimum sight distance specifications for street intersections and intersections of driveways and streets as established in the adopted subdivision and land development regulations of South Abington Township.
5. Chain link fences may only be permitted in rear and side yards if the links, posts, and mounting fixtures are vinyl clad.
6. The Zoning Hearing Board may grant a special exception to erect fence panels on a lot in excess of the maximum height, if the applicant can demonstrate to the Zoning Hearing Board's satisfaction that due to topographical constraints or special needs related to the use of the lot in questions, fence panels of a greater height than normally prescribed are necessary. The Zoning Hearing Board shall also find that such fence panels exceeding the maximum permitted height will not have a significant negative impact on surrounding lots. The Zoning Hearing Board may attach reasonable conditions such as landscaping requirements or setback requirements when granting such a special exception.

C. Retaining Walls.

Retaining walls necessary to support the geotechnical needs of a lot shall be permitted.

**Section 5.9 – Regulation of Nuisance Elements**

A. Noise Control.

1. No person shall operate or cause to be operated on public or private property any source of continuous sound (any sound which is static, fluctuating, or intermittent with a recurrence greater than one (1) time in any 15-second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use group in the following table when measured at or within the property boundary of the receiving land use:

<b>Sound Level Limits and Permitted Hours by Receiving Land Use Group</b>		
<b>Land Use Group(s) Receiving Noise</b>	<b>Hours and Days</b>	<b>Maximum Permitted Sound Level (dBA)</b>
<ul style="list-style-type: none"> <li>- Residential</li> <li>- Care-Related</li> <li>- Institutional</li> <li>- Conservation</li> </ul>	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	62
	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	52
<ul style="list-style-type: none"> <li>- Commercial</li> </ul>	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	67

<b>Sound Level Limits and Permitted Hours by Receiving Land Use Group</b>		
<b>Land Use Group(s) Receiving Noise</b>	<b>Hours and Days</b>	<b>Maximum Permitted Sound Level (dBA)</b>
– Commercial	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	62
– Industrial – Infrastructure	All times and days	70

2. The maximum permissible sound level limits set forth in Subsection A shall not apply to any of the following noise sources:
  - (a) Uses falling under the Agricultural land use group;
  - (b) The emission of sound for the purpose of alerting persons to the existence of an emergency;
  - (c) Emergency work to provide electricity, water, or other public utilities when public health or safety are involved;
  - (d) Domestic power tools, between the hours of 7:00 a.m. and 10:00 p.m.;
  - (e) Construction, including necessary blasting and explosives between the hours of 7:00 a.m. and 10:00 p.m., and street and utility repair operations;
  - (f) Motor vehicles traveling on public streets, except as otherwise specified by law;
  - (g) Public celebrations specifically authorized by South Abington Township;
  - (h) Railroads and airplanes; and
  - (i) The unamplified human voice.
  
3. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one (1) time in any 15-second interval), the sound level shall not exceed 20 dBA over the ambient sound level, regardless of time of day or night or receiving land use group.

**B. Vibration Control.**

No person shall operate or permit the operation of any device or conduct or permit any use to be conducted that creates vibration (detectable without instruments) above the vibration perception threshold of an average person on private property beyond the lot lines of the use generating the vibration or on public property (including the public right-of-way) 50 feet or greater beyond the lot lines of the use generating the vibration. This restriction shall not apply to occasional non-routine blasting that may be necessary during construction or demolition of structures, streets, or utilities.

C. Dust, Dirt, Smoke, Vapor, Gas, and Odor Control.

1. No person shall operate or permit the operation of any device or conduct or permit any use to be conducted which does not conform with the standards set by the Pennsylvania Department of Environmental Protection (DEP), the Air Pollution Control Act of January 8, 1960 (and all amendments thereto), or any other applicable federal or state law or agency.
2. No use shall generate odors, smoke, vapors, or gases above the odor perception threshold of an average person on private or public property beyond the lot lines of the use generating the odors.
3. No use shall generate dust, dirt, smoke, vapors, or gases at any point for longer than five minutes in any hour of a visible color or shade darker than No. 3 on the Ringelmann Smoke Chart as distributed by the U.S. Department of the Interior, Bureau of Mines.

**Section 5.10 – Lighting and Glare**

A. General Provisions.

1. All uses shall direct, deflect, and shield lights and control the intensity of lights and illuminated signs to avoid nuisances and to prevent glare onto other properties and streets. Lights shall not shine directly into the normal line of sight of motorists.
2. Low-voltage and light-emitting diode (LED) lighting systems are encouraged.
3. All outdoor lighting shall be designed, installed, located, and maintained so that nuisance glare onto adjacent lots or streets shall be minimized and all direct illumination kept within the boundaries of the lot.
4. Lights on motion sensors shall not be triggered by movement or activity that occurs off-property from where the light is located.
5. Lighting associated with any canopy structure shall be installed as internal illumination of the canopy only.

B. Lighting Zones.

The following lighting zones are hereby established for the zoning districts designated in Article 3, with the following maximum illumination provisions for each lighting zone:

<b>Lighting Zone 1</b>	
<b>Zoning Districts: CONSV, R-6, R-8</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum illumination at lot lines	0.10 horizontal and vertical foot-candles, when measured three feet above ground

<b>Lighting Zone 1</b>	
<b>Zoning Districts: CONSV, R-6, R-8</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum on-site illumination value	3 foot-candles, when measured three feet above ground
Maximum average on-site illumination	1 foot-candle, when measured three feet above ground
Maximum proportion of illumination at a 90-degree angle or greater from nadir	5% of the lighting fixture's lumens

<b>Lighting Zone 2</b>	
<b>Zoning Districts: REC, SC, PC, LI</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum illumination at lot lines	0.20 horizontal and vertical foot-candles, when measured three feet above ground
Maximum on-site illumination value	5 foot-candles, when measured three feet above ground
Maximum average on-site illumination	1.5 foot-candles, when measured three feet above ground
Maximum proportion of illumination at a 90-degree angle or greater from nadir	10% of the lighting fixture's lumens

**Section 5.11 – Outdoor Storage**

A. Outdoor Storage of Materials.

All outdoor storage of fuel, raw materials, and products, except for finished products for retail sale to the public for a commercial or industrial use in any Mixed Use, Commercial, or Industrial district shall be completely screened from view from any public right-of-way and any residential use or Residential District by a sight-obscuring evergreen planting, fence, or wall at least six (6) feet in height.

B. Outdoor Storage of Garbage.

1. All organic refuse or garbage stored outdoors shall be placed in watertight, vermin-proof containers, with the lid kept in place at all times.

2. All trash dumpsters, compactors, and other refuse storage containers, other than those for single-family or two-family dwellings and other curbside collection, must be completely screened from view on all sides. Solid waste collection and storage areas shall be screened on all sides. Such screening shall consist of decorative masonry walls, solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slats. The fence or wall shall include a self-latching door or gate.
  3. The screening to be installed must be sight-obscuring and shall be installed to at least the height of the dumpster, compactor, or refuse storage container. The permitted screening materials are as follows: solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slat, decorative masonry walls, or evergreen plantings in combination with deciduous shrubs. Plants installed for screening are required to be the height of the dumpster, compactor, or refuse storage container at the time of planting. Dumpsters, compactors, and refuse storage containers other than those for single-family or two-family dwellings and other curbside collection shall not be permitted in the front yard of any property and shall not be located closer than 25 feet to any front yard property line.
  4. The locations of all dumpsters, other than those for single-family or two-family dwellings and other curbside collection, shall be shown on all site plans and land development plans.
- C. Outdoor Storage of Trailer, Mobile Homes, and Recreational Vehicles.
1. The parking and storage of trailers, mobile homes, motor homes, campers, and recreational vehicles shall be prohibited within the right-of-way of any public street.
  2. At no time shall such parked or stored vehicle be occupied or used as a dwelling.
  3. Trailers, mobile homes, motor homes, motor homes, campers, and recreational vehicles shall be parked entirely behind the front face of the principal building, unless completely screened from view by a sight-obscuring evergreen planting, fence, wall, or gate.

### **Section 5.12 – Sewage Disposal**

- A. A sewage permit shall be a prerequisite to the issuance of a zoning permit.
- B. On-Lot Sewage Disposal.

On-lot sewage disposal shall not be permitted for new uses on lots of less than 0.5 acres, unless otherwise permitted by this Ordinance. Any on-lot system proposed shall meet the regulations of the Pennsylvania Department of Environmental Protection (DEP) found in Title 25, Chapter 73 of the Pennsylvania Code.



### Section 5.13 – Accessory Structures

- A. Accessory uses, buildings, and structures are permitted only in conjunction with an established principal use and must be located on the same lot as said principal use.
- B. No structure accessory to a nonresidential use, other than signs and lighting fixtures, shall be located in the front yard setback.
- C. No more than two accessory structures including a private garage are permitted on each residential zoned lot.
- D. Setbacks for accessory structures shall comply with the requirements specified in each zoning district, unless otherwise regulated in this Ordinance.
- E. No object exceeding a height of three (3) feet, unless otherwise permitted by this Ordinance, shall be temporarily or permanently placed, erected, installed, or parked within the clear sight triangle required at the intersection of streets or the intersection of a driveway or private lane with a public street.
- F. Specific types of accessory structures named in this Ordinance shall be regulated by applicable sections in this Ordinance governing such accessory structures. It is the responsibility of the landowner to abide by any provisions for such structures as may be found in this Ordinance or any other ordinances of the Township.

### Section 5.14 – Keeping of Household Animals Other than Pets

- A. General Provisions.
  - 1. The keeping of household animals for private, noncommercial use and enjoyment may be permitted in Agricultural/Conservation/Recreational and Residential districts wherever it is demonstrated that the dimensional and density provisions in this Section can be met.
  - 2. No animals shall be allowed to stray so as to create any health or safety hazards. Animals shall be maintained as to be free from objectionable behavior. Noise shall not exceed the maximum permitted levels found in Section 5.9, Subsection A.
  - 3. All animal structures and roaming areas shall be maintained as to comply with the odor standards found in Section 5.9, Subsection C. Likewise, all manure shall be managed so as to prevent any odor from affecting other properties, contaminating any stream, or otherwise having an adverse impact on the human and natural environment.
  - 4. All pasture, grazing, and exercise areas shall be fenced with materials of sufficient height, strength, and density to adequately confine the animal in question. All such fencing must be in compliance with Section 5.8.
  - 5. All animals shall be properly immunized.

6. Every owner engaged in the keeping of animals shall provide facilities maintained with best management practices so as to be clean and well-maintained and to avoid attracting vermin.
7. The disposal of dead animals shall be in accordance with the Domestic Animal Law, Title 3, Chapter 23, Section 2352 of the Pennsylvania Code. Dead animals shall be disposed of within 48 hours after death.
8. Permitting Process.

Applicants proposing the keeping of animals covered by this Section must submit an application to the Zoning Officer identifying the following:

- (a) A zoning permit application fee payable to the Township in the amount of \$25.00 (this amount may be amended by resolution adopted by the South Abington Township Board of Supervisors);
- (b) Property address, name, and contact information of the applicant;
- (c) Description of the proposed animals and activities on the property;
- (d) Location, area, and height of the proposed shelter/enclosures;
- (e) Distance between the proposed shelters/enclosures and neighboring lots; and
- (f) Verification that the applicant is familiar with the requirements set forth in this Section.

**B. Chickens, Ducks, and Rabbits.**

1. Up to six (6) chickens, ducks, or rabbits can be raised or kept on lots measuring 1 acre or greater in size. For every additional 1/4 acre of lot size, the household is permitted one (1) additional chicken, duck, or rabbit.
2. A sheltered area of a size sufficient for good sanitation practices and adequate and sanitary drainage shall be in accordance with the following minimum requirements:
  - (a) All shelters shall have a roof and at least three (3) enclosed sides.
  - (b) Shelters must be located not less than 20 feet from the lot line of the property. No such structures may be erected or maintained in a front yard or a side yard abutting a street.
  - (c) Shelters shall provide a minimum of eight (8) square feet per animal.
3. The keeping of roosters shall be prohibited.

**C. European Honeybees.**

1. Colonies shall be maintained in moveable frame hives, with hives being no closer than 25 feet to any property line and at least 50 feet from any dwelling located on an adjacent property.
2. All hives shall have access to an on-site water supply, whether it be a water-filled tank or natural water sources located on the property.
3. Swarm management techniques shall be employed to maintain gentle colonies.
4. Beekeeping practices must be consistent with the Pennsylvania Apiary Advisory Board's "Voluntary Best Management Practices for Maintaining European Honey Bee Colonies in the Commonwealth of Pennsylvania."
5. All hives shall have a solid fence or vegetative obstruction six (6) feet or more in height or be elevated so as to direct the flight path of the bees well above traffic and pedestrians.
6. Any beekeeper shall provide documentation that they are in compliance with Pennsylvania's Bee Law, 3 Pa.C.S.A. §§ 2101-2117, which requires the owner of an apiary located in Pennsylvania to register the apiary with the Pennsylvania Department of Agriculture.
7. Ownership, care, and control of the honeybees shall be the responsibility of a resident of the dwelling on the lot or the individual listed on the state registration form.

D. Other Animals.

1. Animals other than chickens, ducks, rabbits, miniature goats, or European honeybees that do not meet the definition of a household pet may only be kept on lots greater than three (3) acres in size.
2. The total number of additional animals permitted on any lot exceeding three (3) acres in lot area shall be computed according to the number of acres (listed below) required per animal. For example, one (1) horse may be kept on a lot of three (3) acres. Two (2) more acres are required for each additional horse. One (1) sheep may be kept on a lot of three (3) acres. One-half (0.5) acre is required for each additional sheep.

<b>Additional Required Lot Area for Additional Animals</b>	
Equine	2.0 acres
Bovine	2.0 acres
Swine	1.5 acres
Sheep	0.5 acres
Poultry and fowl other than chickens and ducks (such as but not limited to geese, turkeys, ostriches, and pea fowl)	0.1 acres

3. Animals not specifically listed above shall be judged as animals of similar size, diet, temperament, and behavior.

### **Section 5.15 – Outdoor Seating Areas**

Outdoor seating areas may be proposed for restaurants, bars or taverns, and brewpubs subject to the following provisions:

- A. A clear pedestrian passageway of five (5) feet or greater shall be maintained. Street furniture, such as light poles, kiosks, mailboxes, tree pits, planters, public benches, and fire hydrants, shall not be located in the clear pedestrian passageway.
- B. No part of the outdoor seating area, including canopy umbrellas, planters, barriers, signage, and freestanding menu displays, shall extend into the required clear pedestrian passageway or into/over the street.
- C. A mobile freestanding menu display may be placed at the edge of the outdoor seating area in lieu of a sandwich board sign (as defined in this Ordinance and provided for in Article 8) but not both.
- D. Outdoor seating areas that extend three (3) feet or less into the public right-of-way or clear pedestrian passageway and that do not include the service of alcohol are not required to be enclosed by a barrier. Otherwise, a barrier between three (3) and four (4) feet in height is required to be erected between the clear pedestrian passageway and the outdoor seating area. Such barrier, which may consist of planters or fencing, shall be at least 60% opaque.
- E. Chairs and tables shall be weather-resistant to sun, rain, and wind and must be freestanding.
- F. Canopy umbrellas shall be between seven (7) and ten (10) feet in height.
- G. Outdoor seating areas shall be subject to any noise, nuisance, and property maintenance ordinances as well such related provisions found in this Article.
- H. No outdoor seating area shall be located closer than 100 feet from a Residential District.

### **Section 5.17 – Solar Energy Systems**

- A. Intent.

It is the intent of this Section to promote the safe, effective, and efficient use of installed solar energy systems that reduce on-site consumption and demand of utility-supplied energy while protecting the health, safety, and welfare of adjacent and surrounding land uses and lots. This Section seeks to:

1. Provide property owners and businessowners/operators with flexibility in satisfying their energy needs;

2. Reduce overall energy demands within the community and to promote energy efficiency; and
3. Integrate alternative energy systems seamlessly into the community's neighborhoods and landscapes without diminishing the quality of life of the community.

B. Applicability.

1. This Section applies to building-mounted and ground-mounted solar energy systems installed and constructed after the effective date of this Ordinance.
2. Solar energy systems constructed prior to the effective date of this Ordinance are not required to meet the requirements of this Section.
3. Any upgrade, modification, or structural change that materially alters the size and placement of an existing solar energy system shall comply with the provisions of this Section.
4. Building-integrated solar energy systems, as defined in this Ordinance, are not considered an accessory use and are not subject to the requirements of this Section.
5. This Section does not apply to principal solar energy systems (PSES), as defined in this Ordinance.

C. Location on a Property.

1. Building-mounted solar energy systems are permitted to face any front, rear, or side yard as defined in this Ordinance. Such systems may only be mounted on lawfully permitted principal and accessory buildings.
2. Ground-mounted solar energy systems are permitted based on the requirements for accessory uses and structures in the property's zoning district.

D. Design and Installation Standards.

1. Solar energy systems must be constructed to comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as administered by the Pennsylvania Department of Labor and Industry (DLI).
2. All wiring must comply with the edition of the National Electrical Code (NEC) adopted by the Commonwealth of Pennsylvania. For ground-mounted solar energy systems, all exterior electrical lines must be buried beneath the surface of the ground where possible or otherwise placed in a conduit.

E. Dimensional Requirements.

1. Setback Requirements for Ground-Mounted Solar Energy Systems.

Ground-mounted solar energy systems are subject to the accessory use setback requirements in the zoning district in which the system is to be constructed. The required setbacks are measured from the lot line to the nearest part of the system. No

part of a ground-mounted solar energy system shall extend into the required setbacks, including in the case of tracking systems or other adjustments of related equipment or parts.

2. Height Requirements.

Notwithstanding the height limitations of the underlying zoning district:

- (a) For a building-mounted solar energy system installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
- (b) For a building-mounted solar energy system installed on a sloped roof that faces the front yard of a lot, the system must be installed at the same angle as the roof on which it is installed, with a maximum distance, as measured perpendicular to the roof, of 18 inches between the roof and the highest edge of or surface of the system.
- (c) For a building-mounted solar energy system installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached.
- (d) Ground-mounted solar energy systems may not exceed the permitted height of accessory structures in the zoning district where the system is to be installed.

F. Screening and Visibility.

1. Building-mounted solar energy systems installed on a sloped roof shall not be required to be screened.
2. Building-mounted solar energy systems mounted on a flat roof shall not be visible from the public right-of-way within a 50-foot radius of the lot, exclusive of an alley, at a level of five (5) feet from the ground. Such systems shall be screened in a similar manner as other rooftop HVAC and mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the edge of the roof.

G. Impervious Lot Coverage Restrictions.

The surface area of any ground-mounted solar energy system, regardless of the mounted angle of any portion of the system, shall be considered an impervious surface and shall be calculated as part of the lot coverage limitations for the zoning district. However, if the ground-mounted solar energy system is mounted above an existing impervious surface, it shall not be calculated as part of the lot coverage limitations for the zoning district.

H. Nonconformance.

1. Building-Mounted Solar Energy Systems.
  - (a) If a building-mounted solar energy system is to be installed on any building or structure that is nonconforming because its height exceeds the maximum height

limitations of the zoning district in which it is located, the building-mounted system shall be permitted so long as the system does not extend above the highest point of the roof to which it is mounted and so long as it complies with the other provisions of this Section.

- (b) If a building-mounted solar energy system is to be installed on a building or structure on a nonconforming lot that does not meet the setback requirements or exceeds the lot coverage limits for the zoning district in which it is located, the building-mounted system shall be permitted so long as there is no expansion of any setback or lot coverage nonconformity and so long as it complies with the other provisions of this Section.

2. Ground-Mounted Solar Energy Systems.

- (a) If a ground-mounted solar energy system is to be installed on a lot containing a structure that is nonconforming because the required minimum setbacks are exceeded, the proposed system shall be permitted so long as the system does not encroach into the required setback for the lot.
- (b) If a ground-mounted solar energy system is to be installed on a lot that is nonconforming because it violates zoning district requirements other than setbacks, then a variance must be obtained for the proposed installation following the procedures found in Article 10.

I. Signage and/or Graphical Content.

No signage or graphical content may be displayed on the solar energy system except for the manufacturer's badge, safety information, and equipment specification information. Said information shall be depicted within a graphical area no more than 36 square inches in size.

J. Performance Requirements.

All solar energy systems are subject to compliance with any applicable performance standards found elsewhere in this Ordinance.

K. Permit Requirements.

Before any construction or installation of any solar energy system shall commence, a permit issued by the Zoning Officer shall be obtained to document compliance with this Section.

L. Inspection, Safety, and Removal.

- 1. South Abington Township reserves the right to inspect a solar energy system for fire or building code compliance and safety.
- 2. If upon inspection, the Township determines that a fire or building code violation exists or that the system poses a safety hazard to persons or property, the Township may order the property owner to repair or remove the system within a reasonable timeframe. Such an order shall be in writing, shall offer the option to repair or otherwise correct the issue, shall specify the code violation or safety hazard found, and shall notify the owner of his or her right to appeal such determination.

3. If the property owner fails to repair or remove a solar energy system as ordered and any appeal rights have been exhausted, the Township may enter the property, remove the system, and charge the owner and/or operator for all costs and expense of removal, including reasonable attorney's fees, or pursue other legal action to have the system removed at the owner and/or operator's expense.
4. In addition to any other available remedies, any unpaid costs resulting from the Township's removal of a vacated, abandoned, or decommissioned solar energy system shall constitute a lien upon the property against which the costs were charged. Legal counsel of the Township shall institute appropriate action for the recovery of such costs, plus attorney's fees, including but not limited to the filing of municipal claims pursuant to the Pennsylvania Municipal Claims and Tax Lien Act, 53 P.S. § 7101 et seq., for the cost of such work, 6% interest per annum, plus a penalty of 5% of the amount due plus attorneys' fees and costs incurred by the Township in connection with the removal work and filing of the municipal claim.

### **Section 5.18 – Swimming Pools**

- A. All outdoor swimming pools and impoundments of water 18 inches in depth or greater with a surface area of 72 square feet or greater shall be properly fenced so as to not become a hazard to any person. The top of such fence or wall shall be at least five (5) feet above the ground. No opening in the fence or wall shall be larger than two (2) inches in width, and all gates shall close with self-catching latches.
- B. Swimming pools shall be designed and constructed to the applicable standards of the Pennsylvania Uniform Construction Code (UCC).
- C. No outdoor swimming pool may be located in any front or side yard setback area. If located in the rear yard setback area, no part of the pool shall be located within ten (10) feet of the rear lot line.

### **Section 5.19 – Temporary Uses, Buildings, and Structures**

- A. Temporary Construction Buildings or Trailers.

The parking of construction vehicles and temporary construction offices on a site that is necessary for construction that is actively underway on the same lot is permitted by right, provided that such vehicles or offices shall be removed immediately once the construction they relate to is completed or suspended.

- B. Temporary Real Estate Sales Offices.

A temporary real estate sales office may be established within a dwelling unit not occupied for residential purposes in a residential development having more than 10 dwelling units, if the real estate sales office is used only to market the real estate offered within the development. A temporary real estate office shall be removed within 14 days of the sale or lease of the last property in the development.

- C. Tents and Membrane Structures.



1. In addition to the special exception procedure provided for in this Ordinance, the Zoning Officer may allow the temporary erection of a tent, membrane, or similar temporary structure that is not totally enclosed for a maximum of seven (7) consecutive days in any four (4) month period for clearly routine customarily accessory uses such as a wedding in the rear yard of a dwelling, a festival by a place of worship, or a special sale within the lot of a lawful commercial use.
2. The Zoning Officer may allow the temporary erection of a tent, membrane structure, or similar temporary structure for a period of up to a maximum of 180 days in any given calendar year, for clearly routine customary accessory uses.
3. All tents, membrane structures, or similar temporary structures to be erected for a total of more than seven (7) consecutive days shall require the submission of a site plan and an application for a zoning permit. The fee shall be established by resolution of the South Abington Township Board of Supervisors.

D. Food Trucks and Food Carts.

A permitted accessory use on lots of more than 20,000 square feet may include the temporary use of a food and nonalcoholic beverage cart for on-site sales, provided that the following requirements are met:

1. The cart is used for a maximum period of four (4) consecutive days once in any six (6) month period.
2. The cart is removed within 48 hours after sales are complete.
3. The applicant submits a site plan showing that the cart will be well-located to avoid traffic conflicts.

E. Other Temporary Uses.

A temporary permit may be issued by the Zoning Hearing Board as a special exception for structures or uses, other than those specifically listed in this Ordinance, subject to the following additional provisions:

1. Duration.

The Zoning Hearing Board shall establish a limit on the duration of the use. In most cases, a temporary approval should have a maximum term of no longer than two (2) years. In the case of a special event, except under special circumstances, this term should be a maximum of six (6) consecutive days in any sixty (60) day period. The Zoning Hearing Board may grant a single approval once for numerous occurrences of an event.

2. Fee.

Either the Zoning Hearing Board or the South Abington Township Board of Supervisors may waive and/or return the required application fee if the applicant is a 501(c)(3) nonprofit corporation and if the applicant clearly shows that the proposed use is temporary and will be used to serve a charitable or public service purpose.

3. Special Events.

For a new special event (not including annual reoccurrences of a previously held event) that will attract significant numbers of the public, the Zoning Hearing Board shall deny the use if it determines that the following will not be generally appropriate for the provision of the temporary use: sanitary and water service, traffic control, off-street parking, and protection of public health, safety, and welfare.

**Section 5.20 – Wind Energy Systems**

- A. Only one wind energy system shall be permitted as an accessory structure on any lot.
- B. The lowest part of the rotor blade must be a minimum of 30 feet higher than the surrounding structures and/or obstructions.
- C. Setbacks from all lot lines, utility lines, and structures shall be 1.5 times the total height of the wind energy system.
- D. Permitting Requirements.

In addition to a zoning permit, applications to construct a wind energy conversion system shall be accompanied by a plot plan package that includes the following:

- 1. Property lines and physical dimensions of the lot;
- 2. Location of the wind energy system tower on the lot;
- 3. Location, dimensions, and types of existing principal and accessory structures on the lot;
- 4. The right-of-way delineation of public streets adjacent to the lot;
- 5. The presence of any overhead utility lines;
- 6. Any easements;
- 7. A map of the 200-foot area surrounding the slot showing all affected lands and structures at a legible scale;
- 8. Specifications of the wind energy system, including manufacturer and model, rotor diameter, tower height, and tower type (e.g., freestanding or guyed);
- 9. Standard installation drawings shall be submitted showing the wind turbine structure, including the tower, the base, and the footings, stamped, and sealed by a professional engineer licensed by the Commonwealth of Pennsylvania;
- 10. An engineering analysis of the tower showing compliance with the Uniform Construction Code and certified by a licensed professional engineer;
- 11. A site-specific wind resource assessment by a qualified professional; and

12. Drawings, plans, and/or narratives demonstrating that the wind energy conservation system is equipped with manual braking and meets all building and electrical codes.
- E. When an application is made for approval of a wind energy system, all property owners within 200 feet of the lot on which the system is to be constructed shall be notified in written form.
- F. The applicant shall comply with all applicable regulations of the Pennsylvania Public Utility Commission (PUC) governing generation of electricity for private use and shall provide evidence that he or she has notified the incumbent utility provider of his or her desire to install an interconnected wind energy system.
- G. Artificial lighting is not permitted, whether directly or indirectly, except as required by the Federal Aviation Administration.
- H. The owner/operator shall make all reasonable efforts to minimize and/or eliminate shadow flicker to occupied buildings on immediately adjacent properties. The applicant is responsible for identifying problem areas where shadow flicker will interfere with existing or future residences and to described proposed mitigation measures when called upon, including but not limited to, a change in siting of the wind energy system, a change in the operation of the wind energy system, or grading or landscaping mitigation measures.
- I. Noise levels for the wind energy system shall not exceed the permitted decibel levels for the underlying zoning district prescribed in Section 5.9.
- J. The wind energy system shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the owner shall correct the problem within 90 days of being notified of the problem.
- K. The wind energy system shall maintain a galvanized neutral finish or be painted to conform to the surrounding environment to minimize adverse effects.
- L. The wind energy system shall have an automatic overspeed control to render the system interoperable when winds are blowing in excess of the speeds for which the system is designed, and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.
- M. All ground-mounted electrical and control equipment shall be labelled and secured to prevent unauthorized access. The tower shall be designed and installed so as not to provide step bolts, a ladder, rungs, or other publicly accessible means of climbing the tower, for a minimum height of eight (8) feet above the ground elevation. Safety fencing is required if the wind energy system has climbing features below 12 feet.
- N. All electrical wires associated with a wind energy system shall be located underground when practicable. All wires not located underground, including but not limited to wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be contained within an appropriate conduit suitable for the same.
- O. A wind energy system is considered abandoned if it is inoperable or unsafe or unattended for a period of 12 months. Non-function or lack of operation may be proven by reports from

the interconnected incumbent utility provider. Wind energy systems must be immediately removed at the expense of the property owner if deemed abandoned.

- P. Wind energy systems cannot be used to support signage, satellite dishes, or antennas.

**Section 5.21 – Wireless Communication Facilities**

- A. Purposes.

The purposes of this Section include a desire to establish reliable standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal, and replacement of wireless communication facilities (WCFs) in South Abington Township, in recognition of the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the federal Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) Pub. L. No. 112-96, 126 Stat. 156 (2012), and FCC regulations promulgated thereunder by the Federal Communications Commission (FCC), including the FCC's Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014); and the Pennsylvania Wireless Broadband Collocation Act (Act 191 of 2012), 53 P.S. § 11702.1 et seq. Moreover, the Township desires to plan and accommodate for the managed deployment of infrastructure that is necessary to accommodate the wireless communication needs of the Township's residents, businesses, and emergency service providers. While the Township recognizes the benefit of wireless communication facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, the Township also recognizes that it has an obligation to protect public safety through the standards set forth in the following provisions.

- B. Zoning District Regulations.

1. Tower-based WCFs are permitted on all municipally owned property regardless of zoning district. Otherwise, the use provisions of Section 3.4 shall apply.
2. Non-tower WCFs are permitted by right subject to application requirements stated herein in all districts, except that no non-tower WCF shall be located, in any zoning district, on a single-family or two-family dwelling.
3. Eligible facilities requests that do not substantially change the tower, base station, or wireless support structure are permitted by right in all zoning districts.

- C. Area and Bulk Requirements.

The following table shall reflect the height, lot size, setback, and locational requirements for tower-based and non-tower WCFs:

<b>TOWER-BASED WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Height</b>	<p>Shall be designed to minimum functional height but not to exceed 100 feet. Applicants must submit documentation justifying the total height.</p> <p>Equipment buildings, cabinets and accessory structures shall not exceed 15 feet in height.</p>	<p>Shall be designed to minimum functional height, not to exceed 55 feet in non-residential districts. Applicants must submit documentation justifying the total height.</p>
<b>Lot Size</b>	<p>Subject to underlying zoning district. Area needed to accommodate the WCF and guy wires (if approved), equipment building or cabinets, security fence, and buffer planting must not extend outside the lot.</p>	Not applicable
<b>Setback – Towers</b>	<p>Setback from property lines at least one hundred percent (100%) of the combined height of the wireless support structure and antenna, or the applicable minimum building setback in the underlying zoning district, whichever is greater.</p>	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	<p>Subject to applicable minimum building setback in the underlying zoning district.</p>	Not applicable
<b>Location</b>	<p>Shall not be located between front façade of the principal structure and the street the lot fronts on, except for equipment cabinets located underground.</p>	Not applicable

<b>NON-TOWER WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Height – On a Building or Similar Structure</b>	<p>Shall not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a variance.</p>	Not applicable
<b>Height – On Electrical Transmission Towers, Streetlights, Utility Poles, Traffic Signals, Signs, and Similar structures</b>	<p>Shall not exceed a height of 5 feet above the electrical transmission tower, streetlight, utility pole, traffic signal, sign and similar structure, unless the WCF applicant obtains a variance.</p>	<p>WCFs located above the surface grade shall consist of equipment components designed at the minimum functional height.</p>

<b>NON-TOWER WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Setback – Mounted Antennas</b>	Not applicable	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	Shall comply with the applicable minimum building setback requirements in the underlying zoning district.	Not applicable
<b>Lot Size</b>	Subject to applicable minimum lot size in the underlying zoning district.	Not applicable
<b>Setback – Towers</b>	Setback from property lines at least one hundred percent (100%) of the combined height of the wireless support structure and antenna, or the applicable minimum building setback in the underlying zoning district, whichever is greater.	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	Subject to applicable minimum building setback in the underlying zoning district.	Not applicable
<b>Location</b>	Shall not be located between front façade of the principal structure and the street the lot fronts on, except for equipment cabinets located underground.	Not applicable

**D. Permit Application Requirements.**

**1. Collocation Analysis.**

An application for a new tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall not be approved unless the applicant demonstrates that the wireless communication equipment planned for the proposed WCF cannot be collocated on an existing structure or building within a 0.25-mile radius of the proposed WCF location to achieve the coverage or capacity objectives of the applicant.

**2. Gap in Coverage or Lack of Adequate Capacity.**

An applicant for a tower-based WCF more than 40 feet in height must demonstrate that a significant gap in wireless coverage exists or a lack of adequate capacity at the proposed location is likely to exist within one (1) year of the filing of its application.

**3. Authorization.**

An applicant for a WCF shall submit a copy of the lease or other form of written authorization with the property owner confirming that the applicant has standing to file the application and to maintain the proposed WCF on the subject lot.

4. Licensing and Applicable Regulations.

If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses.

5. Emissions.

The applicant shall demonstrate that the proposed WCF will comply with all applicable standards established by the FCC governing human exposure to electromagnetic emissions.

6. Insurance.

The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.

7. Application Fees.

- (a) The Township may assess appropriate and reasonable permit application fees directly related to the actual costs in reviewing and processing the application for approval of a WCF. The amount of this fee may not be in excess of the actual reasonable cost to review and process the application.
- (b) The Township may assess to the applicant, in addition to application fees, appropriate and reasonable review fees directly related to the costs incurred by the Township, including but not limited to professional/consultant fees to review the WCF application.
- (c) For special exception applications, the Township's regular special exception application fees shall apply.

8. Review Timeframes.

The following table prescribes the timeframes for Township review of applications for WCFs:

	<b>Township shall notify the applicant in writing of any information that may be required to complete application:</b>	<b>Township shall approve or deny the application, unless a shorter time period is applicable under the PA MPC:</b>
<b>Tower-Based WCFs</b>	Within 30 calendar days of the date the application was filed with the Township.	Within 150 days* of submission of a complete application for a WCF.
<b>WCFs on</b>	Within 30 calendar days of the	Within 90 days* of submission of a

<b>Existing Structures</b>	date the application was filed with the Township.	complete application for a WCF.
<b>Eligible Facilities Requests** (as defined)</b>	Within 30 calendar days of the date the application was filed with the Township.	Within 60 days* of submission of a complete application for a WCF.

\*The time period may be tolled by mutual agreement or in cases where the Township informs the applicant in a timely manner that the application is incomplete. If an application is considered incomplete, the time period begins running again as soon as the applicant makes a supplemental submission, but may be tolled again if the Township provides written notice to the applicant within 10 days that the application remains incomplete and specifically delineates which of the deficiencies specified in the original notice of incompleteness have not been addressed.

\*\*The Township shall only require the applicant to provide documentation that is reasonably related to determining whether the request is an Eligible Facility Request.

**E. Design, Construction, and Operations.**

1. All WCFs shall be sited, designed, constructed, operated, inspected maintained, repaired, modified, removed, and replaced in strict compliance with all current applicable federal and state technical and safety codes.
2. Subdivision plan approval shall not be required when a WCF is located on a leased parcel that is less than the entire lot or property.
3. All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.

**4. Collocation.**

All tower-based WCFs where the wireless communication tower will be more than 40 feet in height shall be designed to accommodate both the applicant's antennas and comparable antennas for future users. As a condition of approval for all tower-based WCFs where the tower will be more than 40 feet in height, the applicant shall agree to allow other service providers to collocate antennas on the tower where technically and economically feasible.

**5. Signage.**

- (a) All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and FCC registration number (if applicable). Such signage shall not include commercial advertising, shall not protrude from the tower or WCF, and is subject to approval by the Township.
- (b) For tower-based WCFs outside of the right-of-way, the posted sign shall not exceed two (2) square feet in area.



- (c) For all other WCFs, the sign shall be limited to the maximum necessary size to provide the required information in a readable manner.

6. Lighting.

WCFs shall not be artificially lighted beyond what is required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect to surrounding properties as is permissible while still meeting state or federal requirements.

7. Noise.

All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established in Section 5.9 of this Ordinance. The use of a backup generator is prohibited except that in emergency situations and for periodic maintenance and testing by the wireless communications provider's technicians, such use shall be permitted, where such noise standards may be exceeded on a temporary basis.

8. Vehicular Access.

- (a) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all tower-based WCFs located outside of the right-of-way.
- (b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- (c) Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.
- (d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
- (e) An applicant shall present documentation to the Township that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
- (f) Any required access easement shall be a minimum of 20 feet in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least 10 feet throughout its entire length.
- (g) Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

9. Fencing.

A security fence, which may include barbed wire, with a minimum height of eight (8) feet may be required to surround any tower-based WCF located outside the right-of-

way, where the wireless communication tower is more than 40 feet in height, including guy wires, associated equipment, and buildings. All or any of the requirements herein for a security fence may be waived by the Zoning Hearing Board when the fence would not be appropriate or feasible.

10. Safety in Rights-of-Way.

(a) Schedule of Operations.

The Township shall determine the time, place, and manner of siting, design, construction, maintenance, repair, modification, removal, and/or replacement of all WCFs located 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 requirements of the Pennsylvania Public Utility Code or other applicable ordinances or laws.

(b) Alteration of a WCF.

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 WCF located in the right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable PUC regulations, shall have determined that such removal, relocation, change, or alteration is reasonably necessary under any one of the following circumstances:

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

No permit is required for such removal, relocation, change or alteration ordered by the Township.

(c) Visual Obstruction.

All WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, to 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 no case shall ground-mounted equipment, walls, screening, or landscaping be located within 18 inches of the face of the curb or, in an area in which there are no curbs, within (3) feet of the edge of cartway.

11. Maintenance.

An applicant for a WCF shall describe anticipated maintenance needs, including frequency of service, personnel needs, and equipment needs, and the traffic, safety, and noise impacts of such maintenance.

12. Soil Report.

An applicant for a tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall submit a soil report complying with the ANSI/EIA-222-G standards for geotechnical investigations to the Township Engineer prior to construction to document and verify the design specifications of the foundation for the wireless support structure and anchors for the guy wires, if used.

13. Aviation Safety.

All WCFs shall comply with federal and state laws and regulations concerning aviation safety.

14. Inspections.

Inspections are required for all WCFs where the new wireless communication tower will be more than 40 feet in height. Copies of all inspection reports shall be provided to the Township following the inspection. Any repairs advised by the report shall be completed by the WCF owner within 60 calendar days after the report is filed with the Township.

15. Equipment Storage.

The storage of unused equipment or supplies is prohibited on any WCF site.

16. Historic Sites.

No WCF may be located on a building or structure that is listed on either the National Register of Historic Places, county or state lists, or any Township-maintained historic resources inventory. This prohibition may be waived by the Zoning Hearing Board.

F. Visibility, Landscaping, and Screening.

1. Stealth Technology.

(a) All WCFs shall employ the most current stealth technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.

(b) In the case of a tower-based WCF, compliance with this Subsection may be evidenced by the following:

(1) The tower shall have a galvanized finish or be painted silver above the top of surrounding trees and green below treetop level.

- (2) The tower shall comply with FAA and PennDOT Bureau of Aviation lighting standards and shall not be artificially lighted unless required by those agencies.

2. Landscaping and Screening.

An applicant for tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall submit a landscaping and screening design complying with the following:

- (a) The applicant shall ensure that the existing vegetation, trees, and shrubs located within close proximity of the WCF support structure shall be preserved to the maximum extent possible.
- (b) Ground mounted equipment must be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by the Township. Where the site abuts a Residential district, public property, or street, a buffer area shall be provided along the perimeter abutting the affected district, property, or street to include at minimum two (2) staggered rows of evergreen trees a minimum of six (6) feet in height, which trees shall be replaced with trees of equivalent height when dead or damaged.

G. Replacement, Collocation, and Modification of Existing Wireless Support Structures.

1. Notwithstanding the requirements for all WCFs, as set forth herein, an application for replacement, collocation, or modification of a previously approved wireless support structure shall be reviewed for conformance with the Township's building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, provided that there is no substantial change to the structure.
2. Replacement of WCFs on existing wireless support structures or within existing equipment compounds may be performed by the applicant without obtaining building or zoning permits from the Township.
3. Any substantial change to an existing WCF shall require approval of the Township in accordance with the terms of this Section.

H. Discontinuation, Abandonment, and Removal.

In the event that use of a WCF is planned to be discontinued, the owner/operator 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 WCFs or portions of WCFs shall be removed as follows:

1. All unused or abandoned WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.

2. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township. The Township's costs in connection with removal, including professional or consultant fees and the cost of removal work and site remediation, may be assessed against the owner of the WCF or the lot upon which the WCF was located.

I. Reimbursement for Use of the Right-of-Way.

In addition to permit application fees, every WCF in the right-of-way is subject to the Township's right to impose annually a fair and reasonable fee to be paid for use and occupancy of the right-of-way. Such annual fee shall be directly related to the Township's costs of owning, maintaining, and managing the right-of-way and to the loss of use to the Township of that portion of the right-of-way consumed by the WCF.

J. Special Exception Criteria and Procedures.

An application for approval by special exception for any tower-based WCF shall, in addition to meeting other applicable requirements in this Ordinance, meet the following criteria:

1. The applicant shall provide to the Township, prior to issuance of a zoning permit for construction, financial security to guarantee the removal of any tower-based WCF. Such financial security shall be in an amount determined by the Township Engineer based upon industry standards for removal and shall be acceptable in form and content to the Township Engineer.
2. No tower-based WCF shall be located or within 100 feet of an area in which all utilities are located underground.
3. The applicant shall provide a propagation study evidencing the need for the proposed WCF, a description of the type and manufacturer of the proposed transmission and receiving equipment, the frequency range assigned to the WCF applicant, the power in watts at which the WCF will transmit, and the results of any relevant tests conducted by the applicant to determine the need for the proposed WCF.
4. The applicant shall supply documentation demonstrating that the proposed WCF complies with all state and federal requirements regarding aviation safety.
5. Where the WCF is located on a property with another principal use, the applicant shall present documentation that the property owner has granted an appropriate lease or easement for the WCF and for access to the WCF.
6. The special exception procedures and criteria in sections 6.3 and 10.4 shall apply and be satisfied by the applicant. In addition, the applicant shall, at his or her expense, mail written notice of the scheduled public hearing for the WCF to all owners of record of property located within 500 feet of the proposed WCF. Such notice shall be mailed at least 14 days prior to the scheduled public hearing, and the applicant shall provide a copy of such notice and proof of such mailing to the Township prior to the hearing.

**Section 5.22 – Wetlands**

A. Wetlands.

If the Township determines that wetlands may be present or may be impacted by the proposed development, the township may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, to be delineated on any application proposing a new use or expanded use of land. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations: and the applicant shall provide to the Township evidence of such compliance. No zoning approval granted by the Township shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations: and the Township shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

B. Buffer for Wetlands

A buffer zone/building setback of not less than twenty-five (25) feet shall be maintained from any wetland. No buildings, structures, sewage disposal systems or other impervious surfaces shall be constructed or placed within these buffer zones. In residential subdivisions this strip shall be protected via a protective easement. In cases where Township Flood Plain Regulations require larger buffers, such regulations shall control. In the case of larger buffers being provided in applicable state and federal regulations, same shall apply.

C. Buffer for Water Bodies

A buffer zone/building setback of not less than twenty-five (25) feet shall be maintained from any body of water or stream. No buildings, structures (except uncovered docks), sewage disposal systems or other impervious surfaces ( except approved boat launches and street and driveway crossings) shall be constructed or placed within these buffer zones. In residential subdivisions this strip shall be protected via a protective easement. Whenever the subdivision and land use ordinance, flood plain ordinance, or storm water ordinance of the Township provides for a more restrictive buffer, same shall apply.

**Section 5.23 – Multi-Family Project**

The intent of this Section is to permit multi-family dwellings while conserving undeveloped land with sensitive natural areas, active agricultural lands, land with potential for agriculture, historic or cultural elements, scenic views, and other significant land features. These land features comprise the character of the Township which stimulated past development, and

continues to attract people to the Township. Without the careful consideration of the development process, many of these significant land features would be lost to the effects of conventional multi-family residential development. The development is designed to reduce the perceived intensity of development, preserve natural features and open land, and provide privacy and community identity.

A. Specific objectives are as follows:

1. To preserve open land, including those areas containing unique and sensitive natural features such as woodlands, farmland, steep slopes, natural drainage ways, streams, lakes, floodplain and wetlands by directing development to other areas of the project parcel.
2. To preserve scenic views and other physical elements of the Township's, and to minimize perceived density, by minimizing views of new development from existing roads.
3. To permit design flexibility and efficiency in the siting of dwellings, services and infrastructure by reducing site preparation requirements, road lengths, utility extensions, storm water management facilities, and other development considerations.
4. To reduce erosion and sedimentation by minimizing disturbance of existing vegetation and directing development away from steep slopes.
5. To reduce the volume of storm water runoff by minimizing the amount of impervious surfaces, and to facilitate storm water management by preserving natural drainage ways.
6. To encourage the preservation and improvement of wildlife habitat by maintaining large parcels of open land and minimizing the disturbance of existing vegetation.
7. To preserve the limited agricultural land in the Township by designation of the said lands as a primary conservation area to be maintained in large blocks.
8. To establish a mechanism for the continued preservation and maintenance of open land in the Township to achieve the purposes enumerated in this Section and for active or passive recreational use by residents.

- B. Procedure: Multi-family dwelling projects shall be considered major subdivisions and land developments subject to the Township Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Township Planning Commission in the manner provided in the Subdivision Ordinance. The developer shall also submit all information required by said Ordinance in addition to the following additional information:

1. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
  2. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association.
- C. Project Design Process: All multi-family dwelling projects shall be designed in accord with the process in this Section of this Ordinance using the density factors in this Section. All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous. The design process included in this Section is based on the approach detailed in the September 1994, Natural Lands Trust publication, Designing Open Space Subdivisions, A Practical Step-by-Step Approach.<sup>1</sup> Multi-family development plans will be reviewed by the Township using the publication as a guide and developers should review the publication prior to initiating the design process and preparing a conceptual plan.
1. Inventory: and Analysis - A site inventory of land forms and natural, historic and scenic features, and a site analysis plan shall be prepared as the foundation of any development proposed in accord with this Section. The site analysis plan also serves as the base for the determination of the location and size of areas to be developed, and conservation areas, those areas to remain undeveloped. The plan shall identify Primary Conservation Areas and all potential Secondary Conservation Areas. The final determination and designation of Secondary Conservation Areas shall be made by the Township as part of the project review and conditional use process.

In addition, the following site elements shall be inventoried and mapped in sufficient detail to allow evaluation of the site analysis plan by the Township relative to the intent of this Section.

- (a) Physical Resources - Identification of the natural resources of the tract including geology, topography, soils, hydrology and vegetation. The features shall be mapped at a scale adequate to show the required detail, and shall be described in a brief narrative, and shall include the following:
  - (1) Topographic contours at minimum intervals of five (5) feet, showing rock outcrops and slopes of more than fifteen (15) percent.
  - (2) Soil types and a table identifying soil characteristics relating to agricultural capability, seasonal high water table, depth to bedrock, and suitability for land application of sewage effluent and for on-lot sewage disposal systems.



Soil information shall be taken from the Lackawanna County Soil Survey published by the U.S. Department of Agriculture.

- (3) Hydrologic characteristics of the tract, including streams, lakes and ponds, floodplain and hydric soils.
  - (4) Vegetation of the tract, showing location and boundaries of agricultural land, woodlands, and other areas in terms of vegetation associations, species and size.
- (b) Land Use - Existing land use and land cover (paved areas, cultivated areas, pastures, etc.), all buildings and structures on the tract, and all encumbrances on the tract such as easements or covenants.
  - (c) Visual Resources - Scenic views onto the tract from surrounding roads and public areas, as well as views of scenic features from within the tract.
  - (d) Cultural and Historic Resources - The location of historic resources on the tract, including buildings and other structures, stone walls, cemeteries, burial grounds, cellar holes, well, etc.
  - (e) Area Context- General locations of buildings, land use, and natural features such as water bodies, wooded areas, ridge lines, and agricultural land, roads, property lines, public and conservancy lands, and other open land easement areas, within five-hundred (500) feet of the tract. This information may be shown on an aerial photograph or a suitable map at a scale o smaller than one (1) inch equals four-hundred (400) feet.
  - (f) Conservation Areas - The following conservation areas shall be clearly identified on the site analysis plan:
    - (1) Primary Conservation Areas shall include: (Development on primary conservation areas shall be prohibited - see Section 5.23.D.4)
      - a. Wetlands
      - b. Land within the 100 year floodplain
      - c. Land with a slope of more than twenty-five (25) percent
      - d. Land within fifty (50) feet of any pond, lake or stream
    - (2) Secondary Conservation Areas shall include: (Development on secondary conservation areas shall be minimized- see Section 5.23.D.4)
      - a. Aquifer recharge areas
      - b. Areas with highly permeable soil
      - c. Land within twenty-five (25) feet of wetlands

- d. Natural drainage ways
  - e. Major rock outcroppings and other unusual geologic features
  - f. Agricultural land and areas with prime agricultural soils as identified by the U.S. Department of Agriculture
  - g. Historic resources
  - h. Scenic views onto the tract from surrounding roads and public areas, as well as views of scenic features from within the tract
2. Useable Land Area - Determination of Base Dwelling Unit Density-The base dwelling unit density shall be determined by deducting the following areas from the total size of the tract and applying the appropriate density as set forth in this Section.
- (a) Land within public rights-of-way.
  - (b) Land within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved the width of the street shall be assumed as fifty [50] feet wide).
  - (c) Seventy (70) percent of wetland areas.
  - (d) Land within the 100-year floodplain as shown on the most current Flood Insurance Rate Map issued by the Federal Emergency Management Agency.
  - (e) Land with a slope of more than twenty-five (25) percent.
  - (f) Any pond or lake more than one (1) acre in size.
  - (g) Land contained within the boundaries of easements for overhead electricity, telephone, or cable television service.
  - (h) Storm water detention basins as defined by metes and bounds. Underground storm water detention facilities which do not restrict the use of the land surface for open land need not be deducted.
3. Conceptual Sketch Plan -- Conditional Use Application - Following the determination of the number of residential units permitted, the developer shall submit to the Township a conceptual sketch plan. The application shall be considered the conditional use application for the project. The purpose of the plan is to determine the overall design of the development including the location of dwellings, street patterns, Primary and Secondary Conservation Areas, and Conservation Area trail linkages. The conceptual plan shall be developed by the following three-step process, as demonstrated to the Township by the developer, and incorporating the design standards contained in this Section:

- (a) Mapping of Primary and Secondary Conservation Areas to identify all potential open land areas
    - (b) Locating dwelling sites
    - (c) Laying out street and footpaths/trails with connections
  4. Conceptual Sketch Plan/Conditional Use Review Process - Upon receipt of a complete application, the Planning Commission shall notify the Township Board of Supervisors of the same. The Planning Commission shall schedule a joint meeting with the developer and the Board of Supervisors to review the sketch plan. Subsequent to, or as part of the said meeting, the Planning Commission and Board of Supervisors shall conduct an inspection of the tract. A joint public hearing shall be conducted by the Planning Commission and Board of Supervisors, in accord with the notice requirements of the PA Municipalities Planning Code. Upon completion of its review, the Planning Commission shall make its recommendation for action on the proposal to the Board of Supervisors, who shall approve, approve with conditions, or reject the conceptual sketch plan, which shall constitute action on the conditional use application. (NOTE: The construction of dwelling units and other buildings in any project approved in accord with this Section shall require a zoning permit prior to construction; however, a conditional use permit shall not be required.)
  5. If approved by the Township, the conceptual sketch plan shall serve as the foundation for the preliminary subdivision/land development plan and the applicant shall not be authorized to make application for subdivision/land development approval until conceptual sketch plan/conditional use approval has been granted. The preliminary subdivision/land development plan shall conform to the conceptual sketch plan in terms of open land areas, number of dwelling units, building locations, street design and other improvements, unless a change is approved by the Township.
  6. Subdivision/Land Development Plan - Following Township approval of the conceptual sketch plan (conditional use), the developer shall be authorized to submit a preliminary subdivision/land development plan in accord with the requirements of the Township Subdivision and Land Development Ordinance. In addition to the information required by the Subdivision and Land Development Ordinance, the conceptual plan information shall be included on the preliminary and final subdivision/land development plans. The time period for Township review and action on the subdivision/land development plan shall not begin until such time as a complete application is submitted in accord with the Township Subdivision and Land Development Ordinance.
- D. Open Land Standards
1. Percentage of Open Land- Not less than fifty (50) percent of the parcel proposed for development shall be dedicated as common open land. The percentage shall be calculated after deducting the following areas from the total parcel size.
    - (a) Land within public rights-of-way.

- (b) Land within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved the width of the street shall be assumed as fifty [50] feet wide).
- (c) Seventy (70) percent of wetland areas.
- (d) Land within the 100-year floodplain as shown on the most current Flood Insurance Rate Map issued by the Federal Emergency Management Agency.
- (e) Table

<b>Deductions for Slope of Land</b>		
	<b>Percentage Slope</b>	<b>Deduct</b>
Land with a slope between	0 - 25%, deduct	No Deduction of area
Land with a slope between	26% - 35%, deduct	30% of area
Land with a slope between	36% - 50%, deduct	50% of area
Land with a slope of more than	50%	100% of area

- (f) Any pond or lake more than one (1) acre in size.
  - (g) Land contained within the boundaries of easements for overhead electricity, telephone, or cable television service.
  - (h) Storm water detention basins as defined by mete and bounds.
  - (i) All impervious surfaces including but not limited to buildings, roads, sidewalks, etc.
  - (j) General Criteria- Sixty (60%) percent of all net useable land area must be less than twenty-five (25%) percent slope. Net useable land area is that land left after applying the nine (9) named deductions hereinabove referred to in this Section.
2. Composition of Open Land Area - The reserved open land shall be contiguous with the project parcel and shall be comprised of not more than a combined total of fifty (50) percent wetlands, 100- year floodplain, or land with a slope of more than twenty-five (25) percent. The open land shall be accessible to the residents of the development, and such access shall be preserved in perpetuity.
  3. Uses Permitted on Open Lands - The following uses shall be permitted in open land areas:
    - (a) Conservation of open land in its natural, unaltered state.

- (b) Recreation areas for the exclusive use of the residents of the dwelling units in the project, including, but not limited to, trails, play fields picnic areas, garden, lawns and other pervious.
  - (c) Easements for drainage, access, sewer or water lines, utilities or other essential services.
  - (d) Storm water management facilities (other than detention basins) for the proposed development, or for a larger area if required for compliance with the requirements of other Township ordinances.
  - (e) Above ground utility and road rights-of-way, except that the land area of the same shall not count toward the minimum open land requirement.
4. Open Land Design Standards - The Township, in considering a proposed development and determining compliance with the intent and standards of this Section, shall evaluate the layout of dwellings and open land in accord with the design standards contained in this Subsection
- E. Diversity and originality in dwelling and neighborhood design and open land designation and interconnection shall be encouraged to achieve the optimum relationship between developed and conservation areas. The final determination of the design of the development and those site features which are most significant shall be made by the Board of Supervisors.
1. The development shall be designed around the primary and secondary conservation areas and to otherwise protect the significant site features identified in the site inventory and designated by the Township.
  2. Development on primary conservation areas shall be prohibited and any soil disturbance or vegetation cutting in primary conservation areas shall be avoided. If any disturbance is required, the developer shall provide documentation of compliance with any applicable regulations governing the same and shall show how any potential adverse effects will be mitigated.
  3. Development, soil disturbance, and vegetation cutting on secondary conservation areas shall be absolutely minimized. If any development or disturbance on secondary conservation areas is proposed the developer shall demonstrate why the said development or disturbance is necessary to the overall development plan, and show how the same will be mitigated.
  4. Open land areas shall, to the greatest extent possible, be in large, continuous, undivided parcels coherently configured to relate to neighborhood areas of the development.
  5. The potential for interconnection of open land on adjoining tracts shall be considered as part of the layout of open land and design dwelling areas.
  6. Reasonable access to open land shall be provided for all neighborhood areas and a safe and convenient pedestrian circulation system shall be provided to connect neighborhoods with open land in the development.

7. The preservation of any identified historic resources shall be incorporated into the design of the development.
  8. Any proposed active recreation areas shall be suitably located for convenient access by residents of the development.
- F. Neighborhood Design Standards: The purpose of the neighborhood design standards in this Section is to create compact groupings of dwellings located to blend with the existing landscape, such as the rise and fall of the topography of the site, hedgerows, agricultural land and woodland, and preserve to a greater extent the visual character of the landscape; thereby maximizing the preservation of open land and the overall character of the community. The following general standards shall be applied to all neighborhoods proposed as part of the development:
1. Neighborhoods shall not be located on primary conservation areas and shall be prohibited on any secondary conservation areas designated by the Township as significant conservation areas.
  2. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than malleable elements that can be changed to meet a particular, preferred development design.
  3. Views of neighborhoods from exterior roads shall be minimized by the use of topography, existing vegetation, new landscaping or other design elements.
  4. The orientation of individual building sites shall maximize the maintenance of existing topography and vegetative cover.
  5. Streets shall be designed to maintain and preserve natural topography, cover, significant landmarks, and trees; to minimize cut and fill; and, to preserve and enhance views and vistas on or off the project parcel.
  6. The preservation of any identified historic resources shall be incorporated into the design of neighborhoods.
  7. All dwellings in a neighborhood shall have access from only an interior development road and not from any road exterior to the project parcel.
- G. Design Criteria: The standards in Table 5.23.G and the following additional design criteria shall apply to multi-family dwelling projects:
1. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right- of-way) to or through the, development or within ten (10) feet of any parking area. A setback of thirty (30) feet for any structure shall be maintained from all existing or proposed public or private road rights-of-way and twenty (20) feet from the boundary line of the entire project parcel. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than five (5) feet.

2. Road Standards - Access roads through the development shall comply with the street requirements of the Township Subdivision Ordinance for minor roads. Access drives serving twelve (12) units or less shall be considered driveways and need not meet minor road standards. Direct access of individual parking spaces to a minor road shall not be permitted, and any such access drive shall remain private.
3. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code and other sections of this Ordinance, but in no case less than thirty (30) feet.
4. Landscaped Buffers -Landscaped buffers, not less than fifteen (15) feet in width shall be provided where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R-1 District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Township. (See Section 6.708.)
5. Pedestrian Access - Walkways of such design and construction as approved by the Township shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Township Subdivision Ordinance.

<b>TABLE 5.23.G</b>			
<b>MULTI-FAMILY DWELLING STANDARDS I</b>			
<b>PROJECT STANDARDS</b>	<b>Townhouses</b> <b>[1]</b>	<b>Garden Apartments</b>	<b>Apartment Buildings</b>
Minimum size for project parcel (acres)	2	2	2
Density -- minimum square feet of useable land area per dwelling unit (useable land area: see Section 5.23.C.2)	6,000	6,000	6,000
Maximum number of dwelling units per building	6	12	24
Maximum building height (stories -- feet)	2.5 -- 35	2.5 - 35	2.5 -35

<b>ADDITIONAL STANDARDS FOR TOWNHOUSES PROPOSED FOR SALE</b>
Minimum lot size for townhouse units - 640 square feet
Minimum lot width at house location - 20 feet

Note 1: The standards for townhouses shall also apply to two-family dwellings in a multi-family dwelling project.

6. Trash Storage - Adequate containers for the temporary storage of trash shall be provided. Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
7. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
8. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages. The Board of Supervisors may, as part of the conditional use process and for good cause shown by the applicant, permit the reduction of the offset to not less than two (2) feet.
9. Parking - Parking for multi-family dwelling projects shall comply with Section 6.500 of this Ordinance.
- H. Non-Residential Use: Non-residential uses and home occupations which employ other than unit residents shall not be permitted in a multi-family dwelling. All home occupations shall comply with the other applicable standards of this Ordinance. Such ancillary facilities as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the project shall be permitted.
- I. Conversions of Existing Structures: Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this Section and all other applicable Township ordinances, including but not limited, to density requirements.
- J. Common Property Ownership and Maintenance: In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Township. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.
- K. Water Supply and Sewage Disposal: All multi-family dwelling projects shall be served by a public water supply and a public sewage disposal system.



**ARTICLE 6**  
**Specific Criteria, Conditional Uses, and Special Exceptions**

**Section 6.1 – Process for Uses Permitted by Right**

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by right (notated with the letter 'P') shall comply with all applicable performance standards and supplementary regulations in this Ordinance. Applications for a zoning permit, a certificate of use and occupancy, and a building permit must be submitted to the Zoning Officer following the provisions and procedures found in Section 11.1.

**Section 6.2 – Process for Conditional Uses**

**B. Applicability.**

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by conditional use (notated with the letter 'C') shall comply with the provisions of this Section, any applicable provisions for the corresponding use found in Section 6.4, and all other applicable performance standards and supplementary regulations in this Ordinance. A conditional use permit shall only be granted when the minimum conditions set forth in Section 6.4 for the specific conditional use have been met.

**C. Procedure.**

1. An application form prescribed by the Township shall be submitted by the applicant for a conditional use permit along with a fee in an amount as established from time to time by resolution of the South Abington Township Board of Supervisors.
2. The applicant shall submit seven (7) paper copies and one (1) digital copy of the necessary documentation of the proposed conditional use to enable the review of such proposal by the Township. The burden of submitting adequate data to allow for full evaluation of the proposal shall rest with the applicant. The applicant must demonstrate that the following conditions have been addressed to the maximum extent applicable:
  - (a) That the proposed conditional use will not adversely affect the health, safety, or welfare of residents in the neighborhood or district in which the use is to be located;
  - (b) That the proposed conditional use will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, or other public improvements;
  - (c) That the proposed conditional use meets all other requirements for the zoning district in which the use is proposed;

- (d) That the proposed conditional use is in general conformity with the Scranton-Abingtons Planning Association Comprehensive Plan; and
  - (e) That the proposed conditional use will not be detrimental to the use or development of or change the essential character of the neighborhood or district in which the use is proposed. The South Abington Township Board of Supervisors shall consider, at a minimum, the impact of noise, dust, light, odor, and adequacy of parking.
3. If subdivision or land development approval is required for the proposed conditional use, the application for a conditional use permit and the application for the subdivision or land development may be processed concurrently, provided that all requirements for the separate applications are met.
  4. The grant of approval of a conditional use permit shall not relieve the applicant from filing and having the Township approve any zoning permit, building permit, certificate of use and occupancy, subdivision, land development, or site plan required by this Ordinance or any other Township ordinance.
  5. The South Abington Township Board of Supervisors may attach such reasonable conditions and safeguards as necessary to implement the purpose and goals of this Ordinance and of the Scranton-Abingtons Planning Association Comprehensive Plan, except that any such conditions shall not be related to off-site transportation or road improvements, as prescribed by Section 603(c)(2) of the Pennsylvania Municipalities Planning Code (MPC).
  6. Public Hearings.
    - (a) Prior to granting approval or denying a conditional use application, the proposal shall be reviewed by the South Abington Township Planning Commission. The Planning Commission and Township Engineer shall be given an opportunity to provide written recommendation to Township Elected Body concerning whether to approve, conditionally approve, or deny the application.
    - (b) A minimum of one (1) public hearing shall be held by the Township Elected Body at a regularly scheduled meeting within 60 days of the date that the applicant filed the conditional use application.
    - (c) Notice of said public hearing shall be placed in the classified section of a newspaper of general local circulation once in each of two (2) successive weeks, the first notice appearing not more than 30 days or less than seven (7) days prior to the hearing, and shall be conspicuously posted by the Township at least one (1) week prior to the date of the hearing at highly visible locations along the perimeter of the lot affected by the conditional use request. Written notice of the hearing shall also be sent by first-class mail to the owners of lots abutting the subject lot or within 300 linear feet of the subject lot and other recognized parties at least one (1) week prior to the date of the hearing. Notices shall indicate the date, time, and place of the hearing, the particular nature of the matter to be considered, and the street address of the specific lot involved.

- (d) If a subsequent public hearing is required, the hearing shall be held within 45 days of the prior hearing.
- (e) The Township Elected Body shall render a written decision, upon review by the Planning Commission, or when no decision is called for, make written findings on the conditional use request, within 45 days after the prior public hearing.
- (f) If the Township Elected Body denies the conditional use application, the applicant may reapply for the same use no sooner than one (1) year after the date of denial of the application or the date of denial of appeal to the Lackawanna County Court of Common Pleas.

**D. Duration of Conditional Use Permit.**

- 1. If a conditional use requires the processing of a subdivision or land development plan, then the grant of the conditional use permit shall expire if a zoning permit, building permit, certificate of use and occupancy, or grading permit is not obtained within 24 months from the date of the grant of the conditional use permit. However, the Township Elected Body, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the conditional use permit's expiration.
- 2. If a subdivision or land development plan is not required, then the grant of the conditional use permit shall expire if a zoning permit, building permit, certificate of use and occupancy, or grading permit is not obtained within 12 months from the date of the grant of the conditional use permit. However, the Township Elected Body, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the conditional use permit's expiration.

**Section 6.3 – Process for Uses by Special Exception**

**A. Applicability.**

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by special exception (notated with the letters 'SE') shall comply with the provisions of this Section, any applicable provisions for the corresponding use found in Section 6.4, and all other applicable performance standards and supplementary regulations in this Ordinance. A special exception permit shall only be granted when the minimum conditions set forth in Section 6.4 for the specific use by special exception have been met.

**B. Procedure.**

Applicants seeking to obtain approval for a use by special exception shall follow the process described in Section 10.6 of this Ordinance.

**C. Conditions for Approval.**

- 1. In addition to the minimum conditions contained in Section 6.4 for each use by special exception, the use shall meet the following additional requirements:

- (a) The Zoning Hearing Board shall find that the proposed use by special exception will not adversely affect the health, safety, or welfare of residents in the neighborhood or district in which the use is to be located.
  - (b) The Zoning Hearing Board shall find that the proposed use by special exception will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, or other public improvements.
  - (c) The Zoning Hearing Board shall find that the proposed use by special exception meets all other requirements for the zoning district in which the use is proposed.
  - (d) The Zoning Hearing Board shall find that the proposed use by special exception is in general conformity with the Scranton-Abingtons Planning Association Comprehensive Plan.
  - (e) The Zoning Hearing Board shall find that the proposed use by special exception will not be detrimental to the use or development of or change the essential character of the neighborhood or district in which the use is proposed. The Zoning Hearing Board shall consider, at a minimum, the impact of noise, dust, light, odor, and adequacy of parking.
2. In granting a use by special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the policy, goals, and community development objectives of this Ordinance.

#### **Section 6.4 – Specific Regulations for Conditional Uses and Uses by Special Exception**

##### Abused person shelter

1. The use shall be subjected to residential inspections in accordance with the Township Housing or Building Code.
2. The service of meals, if provided, shall be limited to residents of record.

##### Agricultural products processing

1. On lots less than five acres, the scale of activities and production shall be residentially oriented.

##### Amusement Park

1. A minimum of 15% of the parking lot consisting of more than 50 parking spaces shall be maintained as a landscaped area, with at least one canopy tree measuring two-inch caliper at six inches above the root collar provided for each eight parking spaces or portion thereof.
2. Landscaped front, side and rear (when adjacent to a street or alley) yard areas within 10 feet of the parking lot may be included in this calculation so long as a minimum of 8% of the landscape area is located in the interior of the parking lot. Canopy trees

along the perimeter shall be spaced evenly to the greatest extent possible, however, canopy trees must be included in the interior landscaping as well.

3. Access drives which fall within the minimum yard area must be landscaped in accordance with the following:
4. The landscape planting shall be placed so that at maturity it shall not be closer than three feet from any public street or property line.
5. The landscape planting shall consist of a mix annual and perennial materials.
6. The landscaping may be a combination of earth berms, vegetation and fencing.
7. New parking lot landscaping shall consist of peripheral landscaping having a minimum width of eight feet along a minimum of 50% of the periphery of the parking lot, which shall contain vegetative screening, including trees planted in number which would equal one tree per 100 feet, but not necessarily placed 100 feet on center, shrubs, perennials, grasses, ground cover, and annuals. Vegetation planted in this landscaping zone shall be chosen to grow to a height of not less than 2 1/2 feet.

#### Assisted living facility

1. The minimum lot size shall be five (5) acres.
2. There shall be a fifty (50) foot setback from all property lines.

#### Betting Use

1. The minimum lot size shall be one-half acre.
2. There shall be a buffer of one hundred and fifty (150) feet from any abutting residential lot line.

#### Billboards

- A. The billboard shall not be placed closer than 300 feet to a building used as one or more dwellings.
- B. The billboard shall not be placed within a 1,000-foot radius of another billboard.
- C. The billboard shall not be placed in the minimum front or side yard area as specified in this Chapter for the particular zoning district in which the sign is to be located.
- D. The billboard sign area shall have a maximum vertical dimension of 12 feet and a maximum horizontal dimension of 25 feet.
- E. The maximum area of a billboard shall be 300 square feet.
- F. The maximum sign height of a billboard shall not exceed 20 feet.
- G. Decorative shrubbery shall be provided at the sign location if, in the opinion of the Township Board of Supervisors, such planting would result in the sign having an

appearance more compatible with the area in which the sign would be located.

- H. The billboard shall not adversely affect the health and safety of persons in the area of the billboard.
- I. The billboard shall not be detrimental to the use or development of, or change the essential character of, the area in which the sign is located.
- J. The billboard may portray information which directs attention to a business or commodity, service or entertainment which may or may not be located on the premises on which the billboard is located.

**BYOB**

- 1. Such use shall not fall under any category under Adult business.
- 2. The hours of operation shall be limited to 12 p.m. to 2 a.m.

**Cemetery**

- 1. The landowner and/or developer shall provide a statement of guaranteed perpetual maintenance before approval is given.
- 2. No burial sites shall be within fifty (50) feet of any lot line or one hundred (100) feet of a street right-of-way.
- 3. Access drives shall be located to take maximum advantage of sight distances for motorists.

**College or university**

- 1. Shall be limited to full-time students, faculty or staff of an accredited college, university, nursing school, medical training program or teaching hospital.
- 2. The building shall be a minimum of 80 feet from any existing single-family detached dwelling or single family semi-detached (twin) dwelling that is not owned by the institution providing such dormitory.
- 3. A dormitory shall include a maximum of one (1) cooking area for every 20 students.

**Commercial recreation facility, indoor**

- 1. To protect the surrounding uses from detrimental noise, dust and other disturbances, screening and buffering of parking areas and outdoor common spaces equivalent to 120% of the base zoning standard must be provided along any respective lot line shared with a residential use.
- 2. If the parking area is adjacent to a residential use or any parking areas contain more than 10 automobiles, the following shall apply:

- a. An additional ten-foot setback for the respective lot line shall be provided along the parking lot's perimeter to minimize the impact of inappropriate noise, dust, light and other disturbances on adjacent residential development.
  - i. One and one-half times the required number of plants for screening and buffering off-street parking and loading areas; or
  - ii. A berm shall be installed along the parking area proposed adjacent to the lot line shared with the residential use, a minimum of 3.5 feet in height at its peak, and the sides do not exceed a four-foot horizontal to one-foot vertical change in elevation. The berm shall be landscaped with plants that provide four seasons of vegetated cover, not including turf grass.
3. Any activity not included within a fully enclosed structure shall have hours of operation limited to 7:00 a.m. to 9:00 p.m. Monday through Saturday.
4. As part of all land development, the landowner and/or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of zero (0) footcandles. Outdoor lights shall not exceed 18 feet in height.

Community center or library

1. A traffic study shall complete to affirm the scale of any necessary improvements for safety or circulation to the adjacent right-of-way.

Day care center, adult and day care center, child

1. The day care facility must hold an approved Pennsylvania Department of Public Welfare registration certificate or license, as appropriate, and meet all current DPW regulations including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local buildings and fire safety codes.
2. All drop-off and pick-ups associated with day care shall be day care facilities shall occur on the lot.

Country Club

1. The ground surface of off-street parking and loading spaces shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
2. An additional ten (10) feet of yard setback with landscape buffering a minimum of six (6) feet in height for off-street parking and loading areas shall be provided as to protect the surrounding neighborhood from in appropriate light and other disturbances as defined by this Ordinance.
3. A country club's hour of operation and activities must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance or interruption.
4. The owner(s) and operator(s) of a country club shall be responsible for the conduct and safety of the members, visitors or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors and guests.

5. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases or solids is permitted.
6. The owner(s) and operator(s) of a country club shall incorporate Best Management Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

Drug store/pharmacy

1. No drive-through window or the like shall be located in a front yard.
2. The drive-through shall have direct access to a public right-of-way.
3. A minimum of three stacking spaces shall be provided for each drive-through lane.
4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of-way.

Dwelling: apartment building

1. Subject to provisions of Section 5.23 - Multi-Family Project.
2. Parking spaces shall be located no more than three hundred (300) feet from the apartment's primary entrance.
3. All parking spaces and driveways shall be surfaced with bituminous, brick, concrete or stone block paving material.
4. The means of a building's ingress and egress shall meet requirements as outlined in the Pennsylvania Uniform Construction Code.
5. A twelve (12) foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.
6. The structure shall be limited to five (5) stories or a maximum of fifty-five (55) feet in height.
7. All dumpsters and/or waste collection areas shall be located at least fifty (50) feet from nearest residential unit. Dumpsters shall be located in the rear setback yard and shall be screened with an earth berm, landscaped buffer yard, fence or wall with a minimum height of eight (8) feet and a minimum opacity of eighty (80) percent.
8. Maximum height of lighting for outdoor parking areas and roadways shall be twenty-five (25) feet.
9. As part of all land development, the landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of one (1) foot candle.
10. Buffer yards between an apartment development and any other adjacent residential lot shall be increased by ten (10) feet in addition to the required buffer yard width.



- Landscaping, within this additional width, shall be provided according to spacing, quantity and type of plants specified by the applicable Township.
11. Slopes shall be graded at a maximum of a three (3) foot horizontal to one (1) foot vertical (3:1) ratio.
  12. Said development shall be permitted on a corner lot unless adjacent to a residential district.
  13. A traffic study may be required, at the expense of the Applicant, if deemed necessary by Council.
  14. If the parking area for a development is adjacent to a single-family residential lot and demands greater than ten (10) automobiles, the following shall apply:
    - b. An additional ten (10) foot buffer yard with one (1) of the following shall be provided along the parking lot's perimeter to minimize the impact of inappropriate noise, dust, light and other disturbances on adjacent residential lots.
    - c. One and one-half (1½) times the required number of plants for screening and buffering off-street parking and loading areas; or
    - d. A mound, a minimum of three and one-half (3½) feet in height at its peak, shall be constructed whereas the sides do not exceed a four (4) foot horizontal to one (1) foot vertical (4:1) change in elevation. The mound shall be landscaped in its entirety with plants that provide four (4) seasons of interest but shall not include turf grass. The landowner and/or developer shall coordinate site drainage so that site development and grading do not create any adverse effects on adjacent lots.

#### Emergency Services

1. The site shall have frontage on and direct vehicular access to an arterial or collector street, as defined herein.
2. Ingress and egress from the site shall be designed so as to maximize sight distance along the adjacent public streets and enhance safety for vehicles exiting the site, as well as those traveling on the streets.
3. Buildings shall be located so that vehicles and equipment can be maneuvered on the property without interrupting traffic flow on or blocking any public street.
4. If a fire service building includes a rental hall or banquet facilities, the following criteria shall be met:
  - a. Any rental of the facility to non-members shall require on-site management and/or security personnel during the event.
  - b. Off-street parking for the facility or rental hall shall be provided in accordance with the requirements of this Ordinance for eating and drinking establishments.
  - c. Activities on the site and within the building shall comply with the noise standards specified in this Ordinance.

- d. If entertainment is presented, doors and windows shall remain closed during any entertainment involving a speaker system and/or amplification.
- e. Parking areas adjoining residential lots shall be screened as described in the Ordinance.

Event barn/facility

1. A parcel of land of not less than five (5) acres shall be required for a special event venue.
2. Special occasion functions may be conducted on the grounds surrounding the home and in buildings accessory to a residential home.
3. A special event venue shall obtain a state highway occupancy permit or a Township driveway permit, as appropriate.
4. Catered food service from a licensed facility is permitted without additional licensing requirements.
5. A special event venue must conform to all zoning regulations with regard to parking, access, signs, area, setbacks, etc., as applicable under this Ordinance or as stipulated by the Zoning Hearing Board.
6. A special event venue must provide for buffer yards as specified in this Ordinance.
7. No offensive odor, noise, vibration, lighting, etc., should be emitted from the use.
8. The use of a residential dwelling for a special event venue utilizing an on-site sewage disposal system must be approved by the Township's Sewage Enforcement Officer and the system upgraded if necessary.
9. A traffic impact study shall be prepared if deemed necessary by the Board of Supervisors.
10. The source of water to be used by the Special Occasion Home shall be a potable water source as certified by a test laboratory and tested annually.
11. The use shall comply with the Federal Life Safety Code, the rules and regulations of the Pennsylvania Department of Labor and Industry, and all other applicable building, safety, and fire codes of the federal, state, or local government.

Farmers market

1. As a principal land use, the following conditions shall apply:
  - f. The market shall be open no more than 12 hours per day.
  - g. Up to 3 food trucks at any one time may be parked in the parking area to serve prepared food to patrons.
  - h. The market shall comply with noise standards contained in the Township's Noise Ordinance.

2. As an accessory land use the following conditions shall apply:
  - a. A minimum gravel area equivalent to three parking spaces shall be available for the use of parking on the lot.
  - b. The market shall be open no more than 12 hours per day.

Flea market

1. The minimum site area shall be 10 acres.
2. The application shall include the following information:
  - a. The siting and orientation of the flea market;
  - b. The location of each individual sales area within the flea market;
  - c. The number and location of proposed parking spaces and driveways proposed for ingress and egress;
  - d. Dimensions of the lot and of the building, if any, in which the flea market will be located;
  - e. Dimensions of each proposed sales area, and the distance between each sales area and adjoining sales areas;
  - f. The distance between lot lines and sales areas;
  - g. The distance between any buildings or structures and sales areas;
  - h. The types of vehicles, stands, trailers or other structures from which sales will be conducted;
  - i. The specific nature of the goods to be sold;
  - j. The availability of restroom facilities;
  - k. Proposed hours of operation;
  - l. Proposed manner and intensity of lighting;
  - m. Proposed manner of trash storage, including a specific description of the types of trash containers to be used and the scheduling and timing of trash pickup.
3. No flammable, explosive or hazardous materials shall be sold.
4. No exterior storage of items to be sold shall be permitted.
5. No exterior public address system shall be permitted.
6. If the flea market is conducted on the site of an existing business that is operational during the hours that the flea market is open for business, traffic

circulation and parking shall not interfere with the free flow of traffic visiting the existing business, nor shall the flea market obstruct parking spaces that are accessory to the existing business.

7. If an existing business is not located on the site or the existing business is not open during the hours of operation of the flea market, sanitary facilities shall be provided for public use during the flea market hours of operation.
8. If an existing business is not located on the property, the flea market shall be subject to the sign regulations applicable in the zoning district. If an existing business exists on the property that has a freestanding ground or pole sign, the flea market shall be entitled to one nonilluminated ground sign, provided the surface area of the sign shall not exceed 32 square feet and the location of the sign complies with the requirements this Ordinance.
9. Auctions shall not be conducted as part of any flea market.
10. All activities shall be conducted under a roofed structure.

Golf course

1. All applications for a conditional use permit shall be accompanied by a land development plan prepared in conformance with the provisions of the Township's Subdivision and Land Development Ordinance.
2. All buildings shall be set back 75 feet from any adjoining roads and 100 feet from adjoining residential structures or parcels.
3. In no case shall the golf course design permit or encourage a golf ball to be driven across any building, building lot, parking lot, street, or driveway.
4. Golf courses may include the following uses provided such uses are reasonably sized and located so as to provide incidental service to the golf course users and employees:
  - a. Clubhouse, which may include:
    - i. Restaurant, snack bar, or lounge.
    - ii. Locker and rest rooms; classrooms; and instructional space.
    - iii. Pro shop.
    - iv. Administrative offices.
    - v. Golf cart and maintenance equipment storage and service facilities.
    - vi. Fitness and health equipment, including workout machines, whirlpools, saunas, and steam rooms.
  - b. Freestanding maintenance equipment and supply buildings, storage yards, locker rooms and/or team meeting facilities.
  - c. Accessory amenities located outside of the clubhouse including:
    - i. Driving range.

- ii. Practice putting green.
- iii. Picnic tables, pavilions and park benches.
- iv. Snack shacks.

Golf driving range

1. A driving range's hours of operation and activities must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance or interruption.
2. The owner(s) and operator(s) of a driving range shall be responsible for the conduct and safety of the members, visitors or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors and guests.
3. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases or solids is permitted.
4. Light fixtures for the night illumination of putting greens, driving range areas and parking areas shall be designed to minimize illumination levels to zero (0) footcandles when measured from an adjacent lot line.
5. The owner(s) and operator(s) of a driving range shall incorporate Best Management Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

Greenhouse/landscape nursery

1. No sales shall be permissible on the lot.
2. The location, orientation and lot circulation shall be such as to minimize the disturbance of the surrounding open space.
3. Equipment storage shall be permitted to include man-operated or mechanical equipment or other machinery that is in operable condition. The storage of inoperable vehicles is prohibited for this use.
4. Site grading shall be completed to ensure that surface run-off is directed away from any and all material storage areas.
5. An eight (8) foot high screen shall be constructed around the perimeter of any storage areas if equipment and/or materials are not contained within an enclosed building/area. The screen shall be measured from the average grade of the adjacent ground, unless otherwise defined by the applicable Township. The screen shall be eighty (80) percent opaque and composed of finished masonry, wood, or black or green vinyl-covered chain link fencing with eight (8) foot high evergreen plantings on the exterior side of the fence.
6. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases or solids shall be permitted, with the exception of gasoline, diesel, fuel and oil for the operation and maintenance of motorized vehicles and equipment.

7. The ground surface of off-street parking shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances. Loading and equipment storage areas shall, at a minimum, be paved with crushed limestone aggregate.
8. No more than one (1) identification sign shall be permitted; said sign shall be a ground or a wall sign. The graphic area of the sign shall not exceed forty (40) square feet.

#### Grocery Store

1. There must be one (1) parking spot for each full-time equivalent employee.
2. There must be one (1) additional parking space for every 500 sf of gross floor area.
3. Parking areas must be illuminated.
4. The landowner and/or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of zero (0) footcandles. Outdoor lights shall not exceed 18 feet in height.
5. There shall be no deliveries between the hours of 6 a.m. and 10 p.m.
6. Active seasonal displays are permitted so as long as they are not located on any parking space designated to meet the minimum parking requirements. No other outdoor storage shall be permitted on the lot.

#### Group Home

1. Twenty-four-hour supervision of residents by a facility employee approved by the Pennsylvania Department of Public Welfare shall be required.
2. Parking areas shall be screened from view of neighboring lots or those directly across the street from the lot.
3. Said facility with six or more residents shall not be located within 1,000 feet of another facility with six or more residents.

#### Hospital

4. The developer and/or landowner shall complete a Traffic Network Analysis to demonstrate that the Township's roadway network will maintain an acceptable level of service and roadway capacity based upon the proposed development's peak traffic volumes. The Traffic Network Analysis shall be completed in accordance with this Chapter.
5. Minimum lot area and yard setbacks shall be as described in Article II of this Chapter for the zoning district wherein the property is located.

6. Safe vehicular access and areas for discharging and picking up patients shall be provided.
7. Parking facilities shall be provided at the ratio of one (1) for each full-time staff member on peak shift and one (1) additional stall for every two (2) patients.
8. A traffic impact study shall be required to be submitted according to the Township's Subdivision and Land Development Ordinance whereas the proposed development, which according to the Institute of Transportation Engineers (ITE) standards, will generate one hundred (100) trips in addition to the adjacent roadways' peak hour volumes.
9. A hospital's height shall not exceed seventy-five (75) feet.

Medical marijuana dispensary

- A. A medical marijuana dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center.
- B. Parking shall be provided at a ratio of 1 space per 200 sf of development; loading shall be provided 0-19,999 sf = 1 berth; 20,000 sf = 2 berths; Each additional 60,000 sf = 1 berth

Membership club, fraternity, or sorority

- a. The ground surface of off-street parking and loading spaces shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
  - b. The service of meals shall be limited to residents only.
  - c. Under no circumstances shall a boarding house have more than twenty (20) residents, unless approved by the Council.
  - d. The owner and/or manager of the boarding house shall reside therein.
- Mineral extraction and quarrying

1. Specific Intent. It is the purpose of this subsection to allow surface mining and its related processing procedures in rural districts by Conditional Use.

2. Permits.

- a. Use of land for surface mining in the rural districts shall be permitted as a Conditional Use, provided the Board of Supervisors determines in each instance that the proposed location will offer reasonable protection to the neighborhood in which the mining operation will occur against possible detrimental effects of the surface mining operations, taking into consideration the physical relationship of the proposed mining site to surrounding properties and permitted land uses, access to the site from public roads, streets and other public rights-of-way that must be traveled in removing minerals from the site and the effect of the mining operations on the public water supply. In granting a use permit under this provision, the Board of Supervisors may impose such conditions upon the location

of the mining operation as are shown to be necessary and appropriate to protect the public health, safety and welfare. No permit granted under this provision shall be valid unless the mine operator also has secured a valid permit to conduct surface mining operations from the appropriate State or Federal agency having regulatory authority over the conduct of surface mining operations.

- b. The Board of Supervisors shall forward one copy of all applications for a Conditional Use for surface mining to the South Abington Township Planning Commission immediately upon receipt for review and comment by that agency on all aspects of the application as they relate to the purposes and requirements of this Chapter. The South Abington Township Planning Commission shall prepare a report on the application within 30 days of the receipt of the application, which report shall be presented to the Board of Supervisors by an authorized representative of the South Abington Township Planning Commission during the public hearing held on the application for a Conditional Use. Copies of the report shall be made available to any party to the proceeding before the Board at a reasonable cost for duplication or reproduction.

3. Application.

- a. Application for a special exception permit from the Zoning Hearing Board shall include a duplicate copy of the application the company made to Pennsylvania Department of Environmental Protection in accordance with the Surface Mining Conservation and Reclamation Act of 1971.

4. Limitations.

- a. No surface mining shall be conducted closer than 100 feet of any public right-of-way or within 300 feet of any property line.
- b. Edges of stockpiles of excavated materials shall not be located closer than 300 feet to the property line, and all reasonable precaution shall be taken to prevent any material or waste deposited upon any stockpile from being transferred off the premises by wind, water or other natural cause.
- c. Fencing. A 6 foot fence that completely encloses the portion of the property that includes the open pit area, high wall, water pool or spoilbank and culm bank (as those terms are defined in the Surface Mining Conservation and Reclamation Act) shall be provided and shall be constructed as to have openings no larger than 6 inches and if pickets are used, the openings shall not exceed 6 inches.

Mobile Storage Units

1. There shall be no outdoor storage.
2. Truck bays shall not be located on the frontage.

Nursing home

1. The institution shall be accredited by the Commonwealth.
2. The institution shall be the sole occupant of the lot.



3. Access drives shall be located to take maximum advantage of sight distances for motorists and shall be as remote as possible from street intersections.
4. Parking areas shall be screened from view of neighboring houses or those directly across the street from the lot.
5. Buildings shall be set back from one another and residential occupancy shall be in conformance with this Ordinance.

#### Oil and Gas Extraction

1. The use shall be conducted in accordance with all relevant Federal and State regulations.

#### Outdoor Storage of Goods

1. Any article or material authorized to be stored outside an enclosed structure in the shall be buffered by six- (6) foot-high opaque fencing, planting, earthen mounds or existing topography to assure that it cannot be seen from adjoining public streets or adjacent residential uses or residentially zoned properties and to assure no adverse effect on adjacent property.
2. Outdoor storage shall not be permitted in the required front yard.
3. Toxic or volatile chemicals shall not be stored outside an enclosed structure.
4. All organic rubbish or waste materials shall be stored in airtight vermin-proof containers.
5. No movable vehicle such as a truck or trailer shall be used for outside storage.
6. Outdoor storage shall not include operable and/or inoperable vehicles including, but not limited to, automobiles, buses, motorcycles and similar machines.
7. Outdoor storage shall not be visible from the primary entrance of any commercial use.
8. Access driveways to outdoor storage shall be paved with a minimum of two (2) inches of slag or stone.
9. The outside storage facility shall not reduce the area required for off-street parking or loading for the principal use, nor shall its location interfere with the free flow of traffic on the site or the use of any off-street parking or loading area.
10. The owner(s) and operator(s) of an outdoor storage facility shall incorporate Best Managements Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

#### Park, private

11. All pools, tennis courts, or other comparable facilities shall be considered structures for the purpose of this chapter.
12. Coverage, including structures, parking lots, and buildings, shall not exceed 50% of the lot.

13. The facility area and lot boundaries shall be landscaped as required by the Township to minimize noise projection and make the grounds aesthetically compatible to the surrounding properties.
14. All structures shall not be less than 100 feet from any lot line, and no less than 200 feet from the nearest house.
15. All parking shall be a minimum of 25 feet from any residential lot line. Gravel parking lots with bumper blocks shall be allowed until such time as the required parking exceeds 25 parking spaces. At such time, all parking spaces shall be paved. Handicapped parking spaces shall comply with ADA standards.
16. All facilities shall abut a public road and have a permanent access thereto.
17. Alcoholic beverages without a Pennsylvania Liquor Control Board license, amplified music, and jukeboxes shall be prohibited on the premises.
18. No direct or sky-reflected glare, whether from floodlights or any other kind of light, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
19. All pools shall be surrounded by a fence at least six feet in height, the entrance to which shall be kept locked when attendant is not present; and shall be constructed in accordance with all applicable state requirements.
20. Tennis courts shall be protected by a permanent fence 10 feet in height behind each base line extending 10 feet beyond the playing area in each direction.
21. The landowner and/or developer shall demonstrate the proposal will be compatible with the neighborhood and not adversely affect adjoining lot.
22. The amount of new traffic generated shall not have a detrimental impact on the neighborhood.
23. Plans shall clearly show ingress-egress facilities and provide proper sight visibility for motorists.
24. Hours of operation shall be scheduled to minimize negative impacts on surrounding residential neighborhoods. The Township may limit hours within this time frame based on the use and location of the facility. Operating hours for the purpose of this section shall mean the period of time that the recreational or athletic activity is occurring.

Place or worship/assembly

- a. Submission and approval of a land development plan and traffic impact study per the requirements established in the Township's Subdivision and Land Development Ordinance.
- b. All activity subject to the Township's Noise Ordinance.
- c. All lighting subject to the illumination standards of this Ordinance.

- d. Primary or accessory uses that are not enclosed shall be limited to operating from dawn to dusk; exceptions may be made for organized activities that are held in outdoor areas with approved lighting.
- e. Impervious coverage limited to 30%.
  - i. Use of impervious material for parking is encouraged. Material must be approved by the Township Engineer.
  - ii. The design of permanent stormwater facilities to allow for recreational activities must be approved by the Township Engineer.
- f. Buffering of any accessory use within the boundary of the site shall not be required; however, landscaping shall be used to delineate the boundaries of the site from adjacent uses in separate ownership and all landscaping required within parking areas shall be provided.
- g. All signs, other than directional signage shall be located on site. The use of temporary event signage must be approved by the Zoning Administrator:
  - i. Any requests for on-site signage beyond that which identifies the principal use of the site or any that is approved as part of the land development plan shall be considered for approval at the sole discretion of the Board of Supervisors. Such consideration may include a review of size, location, material, and illumination.
- h. Any other conditions that the Board determines are necessary to address the impacts associated with the specific use or the specific site.
- i. No public sewer service will be provided to places of assembly that are outside of the RGB/SSA.
- j. To align with the impacts of natural resource demands, within the RA and RR Districts, any structure shall be limited to an occupancy of 250 occupants.

**Public Parking**

- 1. If the parking facility is accessory to the principal use of a lot, it shall be included in all building coverage calculations.
- 2. A garage/structural parking facility shall not be located any closer to a right-of-way line or a property line than what is permitted by the building setbacks defined in this Ordinance.
- 3. The perimeter of a parking garage/structure shall be landscaped with a five (5) foot wide bufferyard of evergreen plantings.
- 4. As part of all land development, the landowner and/or developer shall provide a plan for photometrics of the lot. Lights shall be required in a facility or on the lot and shall not exceed of four (4) foot candles at any time. Illumination on a lot, when adjacent to a residential district, shall be a maximum of zero (0) foot candles. Lighting levels shall also be reduced by one-half ( $\frac{1}{2}$ ) their standard operating power between 11:00 pm and 6:00 am. A parking facility shall conform to any additional illumination

requirements of this Ordinance and any applicable provisions outlined in the Township Subdivision Ordinance.

Recreation facility, public and private

1. All pools, tennis courts, or other comparable facilities shall be considered structures for the purpose of this Chapter.
2. Coverage, including structures, parking lots, and buildings, shall not exceed fifty (50) percent of the lot.
3. The facility area and lot boundaries shall be landscaped as required by the Township to minimize noise projection and make the grounds aesthetically compatible to the surrounding properties.
4. All structures shall not be less than one hundred (100) feet from any lot line, and no less than two hundred (200) feet from the nearest house.
5. All facilities shall have a paved parking area in accordance with this Chapter; and it shall not be closer than twenty-five (25) feet to any residential lot line.
6. All facilities shall abut a public road and have a permanent access thereto.
7. Alcoholic beverages without a Pennsylvania Liquor Control Board license, amplified music, and juke boxes shall be prohibited on the premises.
8. No direct or sky-reflected glare, whether from floodlights or any other kind of light, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
9. All pools shall be surrounded by a fence at least six (6) feet in height, the entrance to which shall be kept locked when attendant is not present; and shall be constructed in accordance with all applicable state requirements.
10. Tennis courts shall be protected by a permanent fence ten (10) feet in height behind each base line extending ten (10) feet beyond the playing area in each direction.
11. The landowner and/or developer shall demonstrate the proposal will be compatible with the neighborhood and not adversely affect adjoining lot.
12. The amount of new traffic generated shall not have a detrimental impact on the neighborhood.
13. Plans shall clearly show ingress-egress facilities and provide proper sight visibility for motorists.
14. Hours of operation shall be scheduled to minimize negative impacts on surrounding residential neighborhoods. The Township may limit hours within this time frame based on the use and location of the facility. Operating hours for the purpose of this section shall mean the period of time that the recreational or athletic activity is occurring.

Recycling, small scale

1. The use shall be conducted within a completely enclosed building.
2. Recycling storage containers shall be completely enclosed.
3. Vehicular access shall not be from the primary commercial frontage if access from the rear or side is possible.
4. Vehicular drop-off areas shall be located a minimum of sixty (60) feet from any intersection or driveway and shall not conflict with residential parking.
5. Council shall determine that such use will not create detrimental impacts on the surrounding properties, taking into consideration probable traffic generation, truck routes, hours of operation, and noise generation.

A. Research and development facility

1. An inventory of toxic, corrosive, flammable, carcinogenic or explosive materials, chemical, liquids, gases or solids stored and/or used on site shall be available upon request.
2. All storage of materials shall be within a completely enclosed building.

Restaurant, drive through/drive-in

1. No drive-thru window or the like shall be located in a front yard.
2. The drive-thru shall have direct access to a public right-of-way.
3. A minimum of three (3) stacking spaces shall be provided for each drive-thru lane.
4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of way.

School, private and public

1. All outdoor play areas shall be completely enclosed by a fence or wall with a minimum height of 4 feet and screened by an evergreen planting which shall reach a height of at least 6 feet within 5 years of planting.
2. The required side yard and rear yard setbacks for a school shall be doubled for any portion of the school that is used for public assembly, whether indoor or outdoor. A school shall be considered as being used for public assembly if it possesses bleachers, permanent seating for viewing events or a cafeteria.
3. There shall be no outside storage materials, equipment or machinery used in the training activities.
4. Vehicular access to a school building shall be via either an arterial or collector street. Vehicular access to a school building via a local street shall be prohibited, except

and only to the extent necessary to provide access for handicapped individuals or secondary emergency access.

5. A Traffic Study shall be submitted with the application. The traffic study shall address and mitigate any adverse impact occasioned by:
  - a. Proposed changes in parking and traffic circulation on the site and into and out of the site; and
  - b. Proposed trip generation, parking and traffic circulation compared with those features of the school when it was operational; and
  - c. Comparative impact on the adjacent streets and surrounding development or the proposed use and the former school use.
6. Any exterior lighting proposed for a building or parking area in a Zoning district shall be of low intensity and shall be shielded so that the source of the lighting is not visible. The maximum intensity measured on the ground or surface of the parking area shall be two (2) footcandles. Flood lighting or similar lighting shall not be permitted.

**B. Shooting/archery range, outdoor**

1. Skeet, rifle or archery ranges shall be directed away from residential areas and adequate backstopping shall be provided to protect surrounding areas from stray bullets or arrows.
2. Outdoor firearm shooting hours shall be limited from 10:00 a.m. to one (1) hour before sunset.
3. No hunting shall be permitted on the grounds within specified safety zones of on-site or off-site buildings and dwellings.

**C. Spa**

1. Hours of operation shall be limited to 8 a.m. to 10 p.m.
2. The maximum lot size shall be two (2) acres.
3. Off street parking shall not be located along the frontage of the lot.
4. Buffering of parking and loading areas adjacent to residential lots shall be provided in accordance with this Ordinance.

**Wireless communications tower**

Unless county, state, or federal law, orders, court rulings, or legal precedent supersede the following provisions, wireless communications facilities shall be permitted as a special exception in districts identified in this Ordinance subject to the criteria stated below.

1. The purpose of this Section is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in South Abington Township. While the Township recognizes the importance of wireless communications facilities (WCFs) in providing high-quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
2. By enacting this Section, the Township intends to:
  - a. Promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities;
  - b. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  - c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
  - d. Address new wireless technologies, including but not limited to, distributed antenna systems, small-cell antennas, data collection units, cable Wi-Fi, and other wireless communications facilities;
  - e. Encourage the collocation of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
  - f. Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
  - g. Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.
3. Regulations for All Tower-Based Wireless Communications Facilities
  - a. Any tower-based WCF 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 tower-based WCF 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.
  - b. Any tower-based WCF structure 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 (ANSFEINTIA-222-E Code, as amended).

- c. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of one hundred fifty feet (150'), which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure.
- d. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- e. Maintenance Requirements for Tower-Based WCFs.
  - i. Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - ii. 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.
  - iii. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- f. No tower-based WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.
- g. No tower-based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as a historic site as defined in the Ordinance of Definition.
- h. No tower-based WCF shall be located in the public right-of-way unless otherwise permitted by county, state, or federal law.
- i. All tower-based WCFs shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township.
- j. Tower-based WCFs shall not be artificially lighted, except as required by law and as may be approved by the Township. 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.
- k. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.
- l. Tower-based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.



- m. Tower-based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
  - n. 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 tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
  - o. Within thirty (30) calendar days of the date that an application for a tower-based WCF 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 new tower-based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Township shall advise the applicant in writing of its 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 one-hundred-fifty (150) day review period.
  - p. Nonconforming tower-based WCFs 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 Section.
  - q. Unused or Abandoned Tower-Based WCFs.
    - i. In the event that use of a tower-based WCF or a portion thereof 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.
    - ii. All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
    - iii. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
    - iv. Any unused portions of tower-based WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.
  - r. The Township may assess the applicant and/or owner of the WCF appropriate and reasonable permit fees consistent with limits set by the Federal Communications Commission and directly related to the Township's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs.
4. Regulations for Tower-Based WCFs Outside the Rights-of-Way

- a. No tower-based WCF shall be located within five hundred feet (500') of a lot in residential use or a residential district boundary.
- b. An applicant for a tower-based WCF 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 WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of tower-based WCFs.
- c. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- d. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use subject to the following conditions:
  - i. The existing use on the property may be any permitted use in the applicable district other than a residential use and need not be affiliated with the communications facility.
  - ii. The minimum lot size shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence and buffer planting.
  - iii. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within five hundred feet (500') of a lot in residential use or a residential district boundary.
- e. Upon receipt of an application for a tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
- f. An application for a new tower-based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a two (2) 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 the reasons why an existing tower or other suitable structure cannot be utilized.
- g. Design Guidelines for Tower-Based WCFs Outside the Rights-of-Way.
  - i. The WCF 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 WCF applicant shall be subject to the approval of the Township.

- ii. Any height extensions to an existing tower-based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon any lawful considerations related to the character of the Township.
- iii. Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
- iv. A security fence having a maximum height of six feet (6') shall completely surround any tower-based WCF, guy wires, or any building housing WCF equipment.
- v. An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
- vi. The WCF applicant shall submit a landscape plan to the Township for review and approval for all proposed screening.
- h. The WCF applicant shall submit a soil report to the Township to document and verify the design specifications of the foundation of the tower-based WCF and anchors for guy wires, if used.
- i. Accessory Equipment for Tower-Based WCFs Outside the Rights-of-Way.
  - i. Ground-mounted equipment associated with or connected to a tower-based WCF shall be underground. In the event an applicant can demonstrate the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground-mounted equipment shall be screened from public view using stealth technologies, as described above.
  - ii. 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.
- j. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to collocate antennas on tower-based WCFs where technically and economically feasible and that the WCF applicant shall not unreasonably withhold such permission. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.
- k. An access road, turn-around space and parking shall be provided to ensure adequate emergency and service access to a tower-based WCF. 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 WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
- l. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do

business in Pennsylvania and maintain financial security acceptable to the Township Solicitor in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this Section. The financial security shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Section, after reasonable notice and opportunity to cure. The owner shall file the financial security with the Township.

- m. The Township reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact, to the extent permitted by law.
  - n. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this Section and any other provisions found within the Township Code or Commonwealth or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
5. Regulations for All Non-Tower Wireless Communications Facilities
- a. Non-tower WCFs are permitted in all zoning districts subject to the restrictions and conditions prescribed below; to prior written approval of the Township; and to county, state, or federal law, orders, court rulings, or legal precedent.
  - b. Upon receipt of an application for a non-tower WCF, the Township shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
  - c. Any non-tower WCF 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. Any non-tower WCF 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.
  - d. Any non-tower WCF 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 EIA/TIA-222-G, as amended).
  - e. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
  - f. Non-tower WCFs shall comply with all federal and Commonwealth laws and regulations concerning aviation safety.
  - g. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology

Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.

- h. Unused or Abandoned Non-Tower WCFs.
    - i. In the event that use of a non-tower WCF or portions thereof 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.
    - ii. All unused or abandoned WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.
    - iii. If the WCF and/or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
  - i. Within thirty (30) calendar days of the date that an application for a non-tower WCF 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 ninety (90) calendar days of receipt of a complete 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 ninety (90) day review period.
  - j. 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 non-tower WCF or \$1,000, whichever is less.
6. Regulations for Non-Tower Wireless Communications Facilities That Substantially Change the Wireless Support Structures to Which They Are Attached
- a. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to prior written approval of the Township.
  - b. Upon receipt of an application for a non-tower WCF, the Township shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
  - c. Any non-tower WCF 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. Any non-tower WCF 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.

- d. Any non-tower WCF 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 EIA/TIA-222-G, as amended).
- e. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- f. No non-tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as a historic site as defined in the Ordinance of Definition.
- g. Non-tower WCFs shall comply with all federal and Commonwealth laws and regulations concerning aviation safety.
- h. Maintenance Requirements for Non-Tower WCFs That Substantially Change the Wireless Support Structures to Which They Are Attached
  - i. Any non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - ii. 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.
  - iii. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- i. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.
- j. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities
- k. Prior to the issuance of a permit, the owner of a non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Township Solicitor in the amount of \$25,000 for each individual non-tower WCF to assure the faithful performance of the terms and conditions of this Section. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Section after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.
- l. 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 non-tower WCF, as well as related inspection, monitoring, and related costs.

7. Regulations for Non-Tower WCFs Outside the Rights-of-Way
  - a. Design Guidelines for Non-Tower WCFs Outside the Rights-of-Way.
    - i. Non-tower WCFs shall be collocated on existing structures such as existing buildings or tower-based WCFs.
    - ii. If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
    - iii. A six-foot (6') high security fence 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.
    - iv. Non-tower WCFs shall employ stealth technology to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
    - v. Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen feet (15') above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use approval.
    - vi. All non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
    - vii. Antennas and their respective accompanying support structures shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
    - viii. The design guidelines above shall not apply to direct-broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
  - b. The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of antennas.
  - c. Any material modification to a WCF shall require a prior amendment to the original permit or authorization.
  - d. The Township reserves the right to deny an application or the construction or placement of any non-tower WCF based upon visual and/or land use impact to the extent permitted by law.
  - e. The Township reserves the right to inspect any non-tower WCF to ensure compliance with the provisions of this Section and any other provisions found

within the Township Code or Commonwealth or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

8. Regulations for Non-Tower WCFs Within the Right-of-Way (ROW)
  - a. Design Guidelines for Non-Tower WCFs Within the Right-of-Way.
    - i. Non-tower WCFs in the ROW shall be collocated on existing poles, such as existing utility poles or light poles.
    - ii. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles shall consist of equipment components that are no more than six feet (6') in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
    - iii. Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted or otherwise coated to be visually compatible with the support structure upon which they are mounted.
  - b. In addition to permit fees as described herein, every non-tower WCF 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 non-tower WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Township and authorized by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such non-tower WCF.
  - c. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs 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.
  - d. Safety Guidelines for Non-Tower WCFs Within the Rights-of-Way.
    - i. Non-tower WCFs 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.



- ii. In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen inches (18") of the face of the curb, or in the absence of a curb, the edge of the pavement.
    - iii. Any underground vaults related to non-tower WCFs shall be reviewed and approved by the Township.
  - e. Design Guidelines for Non-Tower WCFs Within the Right-of-Way.
    - i. Ground-mounted equipment shall be located underground. In the event that an applicant can demonstrate to the satisfaction of the Township Engineer that ground-mounted equipment cannot be underground, then all such equipment shall be screened to the fullest extent possible through the use of landscaping or other decorative features to the satisfaction of the Township.
    - ii. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
    - iii. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
  - f. Removal or Relocation.

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, an owner of non-tower WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

    - i. The construction, repair, maintenance, or installation of any Township or other public improvement in the right-of-way;
    - ii. The operations of the Township or other governmental entity in the right-of-way;
    - iii. Vacation of a street or road or the release of a utility easement; or
    - iv. An emergency as determined by the Township.
  - g. The Township reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact to the extent permitted by law.
- 9. Any person violating any provision of this Section shall be subject, upon finding by a Magisterial District Judge, to a penalty not exceeding \$500 for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Section and any other remedy at law or in equity, the Township may apply to a Federal District Court for an

- injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Section.
10. In the event a determination is made that a person has violated any provision of this Section, such person shall be provided written notice of the determination and the reasons therefor. Except in the case of an emergency, the person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Section and/or federal and/or Pennsylvania law and regulations.
  11. The Township, by granting any permit or taking any other action pursuant to this Section, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, Commonwealth, and local laws and regulations.
  12. If any subsection, sentence, clause, phrase or word of this Section is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not render the remainder of this Section invalid.

**ARTICLE 7**  
**Off-Street Parking and Loading**

**Section 7.1 – Off-Street Loading**

- A. Number of Loading Spaces Required: Every building which requires the receipt or distribution by vehicles of material or merchandise, shall provide at least one off-street loading berth and shall also provide additional spaces in accordance with the Table below.
- B. Size and Location: Each loading space shall be not less than 12 feet in width, 45 feet in length, and 14 feet in height, and may occupy all or part of a required yard.

ADDITIONAL OFF-STREET LOADING SPACE REQUIREMENTS		
Uses	Sq. Ft. of Floor Area	Additional Required Off Street Loading Berths
Schools	15,000 or more	1
Hospitals (In addition to space for ambulance)	15,000 - 300,000	1
	For each additional 300,000 or major fraction thereof	1
Undertakers and funeral Parlors	15,000	1
	For each additional 5,000 or major fraction thereof	1
Hotels and Offices	15,000 or more	1
Commercial, Wholesale, Manufacturing and Storage	15,000 - 25,000	1
	25,000 - 40,000	2
	40,000 - 60,000	3
	60,000 - 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional

**Section 7.2 – Off-Street Parking**

**Article 6**  
**Specific Criteria, Conditional Uses, and Special Exceptions**

- A. Number of Parking Spaces Required: In all districts, at the time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces open to the public shall be provided as set forth in the Table below.
- B. Size: Each off-street parking place shall have an area of not less than 180 square feet exclusive of access drives or aisles, in usable shape and condition.
- C. Access: There shall be adequate ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than ten feet in width in the case of a dwelling, and not less than 20 feet in width in all other cases, leading to the parking or storage areas or loading spaces. Access to off-street parking areas shall be limited to several well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley.
- D. Location of Facilities: Off-Site facilities shall be located on the same zone lot as the use to which they are accessory, or else within a radius of 400 feet. They must also be in the same ownership as the use to which they are accessory, subject to deed restrictions filed in an office of record, requiring the maintenance of the required number of spaces throughout the life of the use.
- E. Modification of Parking Requirements: The Board may authorize on appeal, a modification, reduction, or waiver of the foregoing parking requirements in exceptional cases of use, zone lot size or shape, or other unusual situations.

OFF-STREET PARKING SPACE REQUIREMENTS (a)	
USES	REQUIRED PARKING SPACES
Churches and Schools	1 for each 5 seats in an auditorium or 1 for each 10 classroom seats, whichever is greater
Community Center	1 for each 300 sq. ft. of floor area
Dwellings	2 for each dwelling unit and 1 for each multi-family dwelling unit restricted to occupancy only by elderly persons
Funeral Homes	5 for each parlor, plus 1 for each employee
Hospitals and Nursing Homes	1 for each 3 beds, plus 1 for each employee
Boarding or Lodging Houses	1 for each bedroom

Manufacturing; Research and Development Facility	1 for each 1,000 sq. ft. of floor area, plus 1 for each 4 employees in the maximum working shift. The total parking area shall not be less than 25% of the building floor area.
Medical or Dental Offices	5 spaces for each doctor or dentist

Personal Service Establishment	4 spaces for each employee plus the required residential parking if a home occupation
Restaurants, Bar or Tavern, BYOB or Night Club	1 for each 2 seats
Retail Establishment	1 for each 200 sq. ft. of floor area
Banks and Financial Institutions; Business or Professional Offices	1 for each 200 sq. ft. of floor area
Place of Worship/Assembly	1 for each 5 seats
Wholesale Establishments or Warehouses	1 for each 3 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.
Motels and Hotels	1 space for each living or sleeping unit
(a) Where a use is not specifically mentioned in this Table the requirements for similar uses listed shall apply.	

**Section 7.3 – Development of Parking and Loading Areas**

- A. A parking lot is an area not within a building or other structure where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. This definition shall include a motor vehicle display lot for sales and/or rentals.
- B. Minimum Distances and Set Backs: Off-street loading and parking areas and driveways may be developed in any required front, side or rear yard, provided however that such areas designed for use by five or more vehicles shall not be located closer than 10 feet to any dwelling, school, hospital or similar institution.
- C. Surfacing: Surfacing shall consist of an asphaltic or Portland cement binder pavement (or similar durable and dust-less surface), graded and drained to dispose of all surface water, and designed to provide for orderly and safe loading and parking.
- D. Landscaping Requirements for Parking Lots:
  - 1. Objective -The objective of this provision is to protect and promote the public health, safety and general welfare by requiring the landscaping of parking lots which will serve to reduce heat and noise, and the glare of vehicle lights; to preserve underground water reserves and return precipitation. to the groundwater to act as a natural drainage system and ameliorate storm water drainage problems to reduce soil erosion; to provide shade; to relieve the blighted appearance of parking lots; and to facilitate the creation of a convenient and attractive community.
  - 2. Landscape Plan - No parking lot shall be constructed, enlarged, re-paved or reconstructed or be significantly altered except in accord with the requirements of Section 6.708.3 of this Ordinance and the Township Subdivision and Land Development Ordinance.

- E. Off-street parking and loading facilities may be provided jointly for separate uses if approved by the Board. The total number of spaces shall not be less than the sum of the separate requirements for each use and shall comply with all regulations governing location of accessory spaces.
- F. Zoning District Location: Parking and loading facilities for non-residential uses and access to such facilities shall be permitted only in the zoning district in which the principal use is permitted.

INTERNAL DRAFT

## ARTICLE 8 Signs

Unless otherwise specified below, the construction, alteration, erection, maintenance and location of signs and outdoor displays shall be governed by the provisions of the Building Code of the municipality.

### Section 8.1 – General Requirements

The following regulations shall apply to all permitted sign uses:

- A. All signs shall conform to the same height, side yards setback and rear yard requirements established for principal buildings in the district in which the sign is located, except as follows:
  - 1. Signs which are to be attached flat against any building existing at the time of passage of this ordinance.
  - 2. Signs permitted in residential districts may be free-standing signs located five feet in front of the principal building, except for name plates and identification signs which must be attached to the building.
  - 3. Where drive-in or parking facilities are provided, one (1) business sign not exceeding forty-five (45) square feet in area may be erected in any required setback area if it is not located nearer to the street or highway right-of-way line than one third (1/3) the required setback distance.
- B. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
- C. Lighted Signs:
  - 1. No sign will be permitted which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or primary systems or which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle, or which interferes with any driver's operation of a motor vehicle.
  - 2. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.
  - 3. Signs which contain, include, or are illuminated by any flashing, intermittent or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
- D. Signs, other than official traffic signs, shall not be erected within the right-of-way lines of any street.

- E. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window, or fire escape, or so as to prevent free access from one part of a roof to any other part. No sign of any kind shall be attached to a stand-pipe or fire escape.
- F. A zoning permit shall not be required for the erection, alteration or maintenance of any sign, less than seven (7) square feet in area, permitted in an Residential District.
- G. A zoning permit shall be required for the erection or reconstruction of any business or advertising sign.
- H. All temporary signs erected for a special event shall be removed by the property owner when the circumstances leading to their erection no longer apply.
- I. No sign shall be erected at the intersection of streets so as to obstruct free and clear vision, and if located within the direct line of vision of any traffic control sign or signal, shall not have flashing or intermittent lighting, or red, green or amber illumination.

**Section 8.2 – Signs in Residential and Conservation Districts**

- A. Regulations of Signs: Non-flashing and non-advertising signs are permitted in all Residential and Conservation Districts as set forth in Table 5.
- B. Height and Projection of Signs: No sign in a Residential or Conservation District shall project into any public way, or project higher than ten (10) feet above ground level.

*Subsection 8.2.1 – Table of Sign Types and Regulations in Residential and Conservation Districts*

TABLES REGULATIONS PERTAINING TO NON-FLASHING, NON-ADVERTISING SIGNS IN RESIDENTIAL AND CONSERVATION DISTRICTS		
Sign Type	Maximum Area	Maximum Number
Name Plates and Identification (a) signs indicating name or address of occupant, or a permitted home occupation	Two (2) sq. ft. area	One (1) per dwelling unit, two (2) in corner lots, and one (1) facing each street
Sale or Rental signs indicating the sale or rental of the premises or the sale of farm products (b)	Six (6) sq. ft. in area	One (1), unless property fronts upon more than one street, then two (2), one (1) on each frontage



Institutional signs identifying school, colleges, hospitals, churches and other similar institutions (b) signs Accessory to parking areas (b) 1. At entrances and exits 2. Containing instructions on use of parking lot	Twenty (20) sq. ft. in area	One (1), unless property fronts upon more than one street, then two (2), one (1) on each frontage
	Two (2) sq. ft. in area Nine (9) sq. ft. in area	One (1) for each entrance or exit Only one (1), identifying area, or designating conditions
Development signs advertising sale or development of premises (b)	Thirty-two (32) sq. ft. in area	Two (2), unless property fronts upon more than one (1) street, then two (2) on each frontage
Artisan's signs identifying work of mechanics, painters, and other artisans (c)	Twelve (12) sq. ft. in area	No limit
Private Driveways signs indicating the private nature of a driveway, or trespassing signs	Two (2) sq. ft. in area	No limit
Farm Product Signs advertising sale of farm products when permitted (d)	Six (6) sq. ft. in area	Two (2)
(a) Must be attached to the dwelling (b) Must be located on property (c) Must be removed promptly upon completion of work (d) May be displayed only when products are on sale		

**Section 8.3 – Business Signs in Commercial and Industrial Districts**

- A. Business signs bearing the name of the occupant and products manufactured, processed, sold or displayed on the premises may be erected and maintained in all Commercial and Industrial Districts.
- B. Illuminated, non-flashing and non-animated business signs accessory and incidental to the permitted use, shall be permitted in all Commercial and Industrial Districts subject to the following requirements:
- C. Projection of Signs: No hanging or suspended sign shall be erected so as to exceed the following projections:
  - 1. No sign shall project beyond a property line, over a public sidewalk area, or over a public right-of-way,
  - 2. Projections from main wall of building four (4) feet.

- C. Height of Signs: No business sign shall project higher than twenty-five (25) feet above ground level.
- D. Maximum Area of Business Signs: The gross area of all business signs, located on the same zone lot as the principal use, shall not exceed the number of square feet per linear foot of lot frontage as follows:

District	Square Feet	Maximum Sign Area (Each Sign)
PC	4	150
SC	6	150
LI	8	150

- E. Maximum Number of Business Signs: The maximum number of business signs located on the same zone lot as the principal use shall not exceed two (2) signs.

INTERNAL DRAFT

## ARTICLE 9 Nonconformities

### Section 9.1 – Intent and Applicability

- A. It is the intent of this Article to recognize the right of nonconformities to continue but to encourage that such lots, uses, and structures be brought into conformity with this Ordinance as soon as constitutionally permissible. To achieve this end, nonconformities are subject to the regulations set forth in this Article.
- B. A lawful nonconforming use, structure, or lot as defined by this Ordinance may be continued and may be sold and continued by new owners. Any expansion of, construction upon, or change in use of a nonconformity shall only occur in conformance with this Section and subject to the following criteria and standards:
1. The alteration or extension provides for a natural expansion which is not detrimental to public health, safety, and general welfare, provided such expansion does not exceed 50% of the existing ground floor area of the structure or other space occupied by the use.
  2. The alteration or extension does not constitute the addition of a new nonconforming use or structure.
  3. The alteration or extension does not decrease yards when already failing to meet minimum yard setback areas.
  4. The alteration or extension meets the district regulations for such use or structure as if the use or structure were being altered or extended in a district where such use is permitted.

### Section 9.2 – Nonconforming Uses

- A. Expansion of Nonconforming Residential Uses.

An existing nonconforming residential use may be expanded in floor area as a permitted by right use, provided that:

1. The number of dwelling units is not increased;
  2. The expansion meets all applicable setbacks;
  3. No new types of nonconformities are created; and
  4. A nonconformity is not made more severe (including the building area within the required setback area).
- B. Expansion of Nonconforming Nonresidential Uses.

A nonconforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:

1. An expansion of a total of more than 5% in total building floor area in any five-year period shall require special exception approval from the Zoning Hearing Board under Article 10.
2. Such reconstruction or expansion shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
3. The total building floor area used by a nonconforming use or the total area covered by impervious surfaces of a nonconforming use shall not be increased by greater than 50% beyond each such measurement that existed in such use at the time the use became nonconforming. This maximum increase shall be measured in aggregate over the entire life of the nonconformity.
4. Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this Ordinance, unless the Zoning Hearing Board grants a variance.

**C. Abandonment of Nonconforming Uses.**

If a nonconforming use is discontinued or abandoned for 12 months or longer, subsequent use shall conform with the current regulations of this Ordinance.

**D. Nonconforming Outdoor Storage Activities.**

If a nonconforming junkyard, outside storage area, or similar use of open land is discontinued for 90 days or more, or is damaged or destroyed to an extent of 50% or more of replacement cost, such use shall not be continued, repaired, or reconstructed.

**E. Change from One Nonconforming Use to Another.**

1. Once changed to a conforming use, such use shall not revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only if permitted as a special exception by the Zoning Hearing Board. The Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equally or less objectionable in external effects than the pre-existing nonconforming use with regard to:
  - (a) Traffic generation (especially truck traffic);
  - (b) Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, and explosive hazards;
  - (c) Amount and character of outdoor storage;
  - (d) Hours of operation if the use would be close to dwellings; and
  - (e) Compatibility with the character of the surrounding area.

F. Nonconformities Due to Zoning Changes.

Any uses that become nonconforming because of a zoning district change shall be regulated under this Section on nonconformities.

**Section 9.3 – Nonconforming Structures**

A. Reconstruction or Expansion of Nonconforming Structures.

1. The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded, provided that:
  - (a) Such action will not increase the severity, extent, or amount of the nonconformity (such as the area of the building extending into the required setback) or create any new nonconformity; and
  - (b) Any expanded area complies with the applicable height restrictions and applicable setbacks set forth in the underlying zoning district in which the nonconforming structure is located as well as all other requirements of this Ordinance.
2. In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements of this Section regarding nonconforming uses.

B. Damaged or Destroyed Nonconforming Structures.

1. A nonconforming structure that has been destroyed or damaged by fire, windstorm, lightning or a similar cause to an extent of 50% or more of its total value and shall be deemed not to be the fault of the owner may rebuild in a nonconforming fashion only if the application for a building permit is submitted within 18 months after the date of damage or destruction, work begins in earnest within 12 months afterward, and no nonconformity is created or increased by any reconstruction.
2. Rebuilding of a damaged or destroyed nonconformity shall not begin until plans for rebuilding have been presented and approved by the Zoning Officer. Any change of one nonconforming use to another nonconforming use shall comply with the provisions of this Section.
3. Nonconforming agricultural structures on farms may be reestablished or reconstructed as a use permitted by right if damaged or destroyed, without a time limit.

C. Abandonment of Nonconforming Structures.

If a nonconforming structure is razed, removed, or abandoned for 12 months or longer, subsequent use of such building or land shall conform with the current regulations of this Ordinance.

D. New Construction and Building Permits.

1. New Construction.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

2. Building Permits and Nonconformities.

When an active building permit has been lawfully issued prior to the adoption of this Ordinance that makes such activity nonconforming, such use, lot, or structure shall be regulated under the applicable nonconforming regulations, provided that such construction is completed within a maximum of 12 months of the issuance of such permit

**Section 9.4 – Nonconforming Lots of Record**

A. In any district in which dwellings are permitted as principal uses, a single-family detached dwelling and customary accessory uses may be erected on any single nonconforming lot of record at the effective date of adoption of this Ordinance, provides that such lot:

1. Has a minimum width of 100 feet measured at the minimum building setback line;
2. Has a minimum lot area of 0.5 acres;
3. Will comply with minimum setbacks and other requirements of this Ordinance for any new construction or expanded area, except for minimum lot depth and those provisions specifically allowed to be altered by this Section or for which a variance is granted; and
4. Has minimum side yard setbacks of eight (8) feet each or 10% each of the lot width, whichever is larger.

B. Integration of Nonconforming Lots.

If two (2) or more abutting lots or combinations of abutting lots and portions of lots under the same ownership are of record and not in conformity at the time of adoption of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width or area, the lands involved shall be integrated to form one (1) lot that would be in conformance with this Ordinance or otherwise less nonconforming. Such integrated lot in common ownership shall not be subdivided, re-subdivided, or sold in parts using separate deeds to separate owners, unless specifically approved as a subdivision under the adopted subdivision and land development regulations of South Abington Township.

**Section 9.5 – Registration of Nonconformities**

It shall be the responsibility of a property owner asserting a nonconformity to provide the evidence that it is lawful. The property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.

INTERNAL DRAFT

**ARTICLE 10**  
**Zoning Hearing Board**

**Section 10.1 – Organization and Procedure**

A. Organization.

1. The South Abington Township Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Zoning Hearing Board, but the Zoning Hearing 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 Zoning Hearing Board as provided in Subsection E.
2. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with the ordinances of South Abington Township and the laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, records of which shall be the property of South Abington Township. The Zoning Hearing Board shall submit reports of its activities to the South Abington Township Board of Supervisors when requested.

B. Membership, Terms, and Vacancies.

The membership of the Zoning Hearing Board shall consist of three (3) residents of South Abington Township appointed by the South Abington Township Board of Supervisors by resolution. Their terms of office shall be three (3) years and shall be so fixed that the term of office of no more than one (1) member shall expire each year. The Zoning Hearing Board shall promptly notify the South Abington Township 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 Zoning Hearing Board shall hold no other office in South Abington Township.

C. Removal of Members.

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by majority vote of the South Abington Township Board of Supervisors, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

D. Appeals and Applications to the Zoning Hearing Board.

Appeals and applications to the Zoning Hearing Board from the terms of this Ordinance shall be filed with the Zoning Officer and shall contain:

1. The name and address of the applicant;
2. The name and address of the owner of the real estate involved in the appeal;



3. A brief description and location of the real estate involved in the appeal;
4. A statement of the present zoning classification of the involved real estate and a description of the improvements thereon and the present use thereof;
5. Reference to the section or sections of this Ordinance under which the appeal or application is filed; or, reference to the section or sections of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal;
6. An accurate description of the present and/or proposed use intended to be made, indicating the size and use of such proposed use;
7. A plot plan of the involved real estate as required to accompany applications for permits; and
8. An application fee, in an amount as established from time to time by resolution of the South Abington Township Board of Supervisors, payable to South Abington Township.

E. Conduct of Hearings.

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 10.6 and with Section 908 of the Pennsylvania Municipalities Planning Code (MPC).

F. Expenditures for Services.

Within the limits of funds appropriated by the South Abington Township Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by resolution of the South Abington Township Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to members of the South Abington Township Board of Supervisors.

### **Section 10.2 – Zoning Hearing Board Functions**

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

- A. Substantive challenges to the validity of any land use ordinance, except when a curative amendment is brought before the South Abington Township Board of Supervisors;
- B. 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 30 days after the effective date of said ordinance;
- C. 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 therefor, the issuance of any cease-and-deist order or the registration or refusal to register any nonconforming use, structure, or lot;

- D. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to any floodplain or flood hazard ordinance or such provisions within a land use ordinance;
- E. Applications for variances from the terms of this Ordinance;
- F. Applications for uses by special exception under the terms of this Ordinance;
- G. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of this Ordinance;
- H. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC); and
- I. Appeals from any determination of the Township Engineer or the Zoning Officer 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 subdivision and land development applications or applications for a planned residential development.

**Section 10.3 – Variances**

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. Upon appeal, the Zoning Hearing Board shall have the power to authorize variances from the requirements of this Ordinance and to attach conditions to such variances as it deems necessary to assure compliance with the purposes of this Ordinance. A variance may be granted if all of the following findings are made, where relevant in a given case:
  - 1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular lot and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the lot is located;
  - 2. That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the lot;
  - 3. That such unnecessary hardship has not been created by the appellant;
  - 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the lot is located, nor substantially or permanently impair the appropriate use or development of adjacent lots, nor be detrimental to the public welfare; and
  - 5. That the variance, if authorized, will represent the minimum variance necessary to afford relief and will represent the least modification possible of the regulation in issue.

- B. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the policy, goals, and community development objectives of this Ordinance.
- C. Unless specifically authorized by the Zoning Hearing Board, the grant of a variance shall expire if a zoning permit, building, permit, certificate of use and occupancy, or grading permit is not obtained within 12 months from the date of the grant of the variance. However, the Zoning Hearing Board, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the initial expiration date.

#### **Section 10.4 – Uses by Special Exception**

The Zoning Hearing Board shall have the power to hear and decide on applications for uses by special exception as authorized by this Ordinance, in harmony with the purpose and goals of this Ordinance and of the Scranton-Abingtons Planning Association Comprehensive Plan, and in accordance with the provisions set forth in Article 6. The Zoning Hearing Board shall approve a use by special exception only if it meets all applicable requirements of this Ordinance and the express standards and criteria set forth in Section 6.4. In granting a use by special exception, the Zoning Hearing Board may attach such reasonable safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to properly implement the purpose and goals of this Ordinance and to protect the public health, safety, and welfare.

#### **Section 10.5 – Parties Appellant Before the Board**

Appeals under Section 10.2, subsections A, B, C, D, G, H, and I, may be filed in writing with the Zoning Hearing Board by:

- A. The landowner affected;
- B. Any officer or agency of the Township; or
- C. Any person aggrieved.

#### **Section 10.6 – Hearings and Decisions**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 908 of the Pennsylvania Municipalities Planning Code (MPC). The rules and procedures for such hearings shall be as follows:

- A. Public notice shall be placed in the classified section of a newspaper of general local circulation once in each of two (2) successive weeks, the first notice appearing not more than 30 days or less than seven (7) days prior to the hearing, and shall be conspicuously posted at highly visible locations along the perimeter of the subject lot at least one (1) week prior to the hearing. In addition, written notice of the hearing shall be sent by first-class mail to the owners of lots abutting the subject lot or within 300 linear feet of the subject lot and other recognized parties at least one (1) week prior to the date of the hearing. Notices shall indicate the date, time, and place of the hearing, the particular nature of the matter to be considered, and the street address of the specific lot involved.

- B. The parties to the hearing shall be the applicant, the municipality, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person, including civic or community organizations, permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall require all persons who wish to be considered parties to enter such request on an appearance form provided by the Zoning Hearing Board for that purpose.
- C. The Chairman of the Zoning Hearing Board or the hearing officer presiding shall conduct the hearing and shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and/or the production of relevant documents and papers, including witnesses and documents requested by the parties.
- D. The parties in a hearing shall have the right to be represented by counsel and shall be afforded the opportunity to respond, present evidence and cross-examine adverse witnesses on all relevant issues.
- E. Formal rules of evidence shall not apply and irrelevant or redundant evidence may be excluded.
- F. The first hearing before the Zoning Hearing Board or the hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time.
- G. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
- H. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
- I. 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 100 days, including the first hearing.
- J. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of additional hearings for rebuttal.
- K. The Zoning Hearing Board, or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer, or shall be paid by the person appealing the decision of the Zoning Hearing Board if such an 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.

- L. The Zoning Hearing Board, or the hearing officer, as the case may be, shall not communicate, directly or indirectly, with any party and/or representative of any party in connection with any issue relevant to the hearing except upon notice and opportunity for all parties to participate; shall not take notice of any communications, reports or other materials, except advice from the Zoning Hearing Board's legal counsel, unless all parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings with any party and/or representative of any party after the start of hearings unless all parties are given an opportunity to be present.
- M. The Zoning Hearing Board, or the hearing officer, as the case may be, shall render a written decision, or, when no decision is required, a written finding on the application, within 45 days after the last hearing. Decisions shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Ordinance or any other ordinance or regulation shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- N. If the hearing is conducted by a hearing officer and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make the hearing officer's report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings. The Zoning Hearing Board may concur in the hearing officer's decision, overturn it, or order a new hearing, provided that such decision by the Zoning Hearing Board is entered no later than 30 days after the report of the hearing officer.
- O. Where the Zoning Hearing Board fails to render the decision within the period required by this Section or fails to hold the required hearing within 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.
- P. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as herein provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to the Lackawanna County Court of Common Pleas.
- Q. A copy of the final decision, or the findings, if no decision is required, shall be mailed to the applicant not later than the day after the date of the decision. All others requesting notice of the decision not later than the last day of the hearing shall receive by mail a summary of the findings or decision and a statement of the place at which the full decision or findings may be examined.

### **Section 10.7 – Mediation**

- A. Parties to proceedings authorized in this Section may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party.

Mediation shall supplement, not replace, those procedures in this Section once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

- B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Township, in offering the mediation option, shall assure that in each case the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
1. Funding mediation;
  2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation;
  3. Completing mediation, including time limits for such completion;
  4. Suspending time limits otherwise authorized by this Ordinance or the Pennsylvania Municipalities Planning Code (MPC), provided that there is written consent by the mediating parties, and by an applicant or decision-making body of the Township, if either is not a party to the mediation;
  5. Identifying all parties and affording them the opportunity to participate;
  6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public; and
  7. Assuring that mediated solutions are in writing and signed by the parties and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in this Ordinance or the Pennsylvania Municipalities Planning Code (MPC).
- C. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

**Section 10.8 – Time Limitations**

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate 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. 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 an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC), shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the preliminary submission.

- B. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

**Section 10.9 – Appeals to Court and Other Administrative Proceedings**

Nothing contained in this Article shall be construed to deny the appellant the right to proceed directly to a court where appropriate, pursuant to the Pennsylvania Rule of Civil Procedure No. 1091, relating to action in mandamus. Appeals to court from any decision of the Zoning Hearing Board may be taken by any party aggrieved in accordance with the time frame and manner provided by Article X-A of the Pennsylvania Municipalities Planning Code (MPC).

INTERNAL DRAFT

**ARTICLE 11**  
**Administration and Enforcement**

**Section 11.1 – Permits and Certificates**

A. Applications for Zoning Permits, Certificates of Use and Occupancy, and Building Permits.

The applicant shall be responsible to submit sufficient data with his or her applications for a zoning permit, a certificate of use and occupancy, and/or a building permit to enable the Township to review said applications for full compliance with the provisions of this and other applicable ordinances. The Township reserves the right to request that the applicant submit information certified by a professional engineer or registered surveyor licensed by the Commonwealth of Pennsylvania when it is deemed necessary for an accurate review of the application(s).

B. Permits.

1. Zoning Permits.

(a) A zoning permit shall be required prior to:

- (1) A change in use of land or structure;
- (2) The placement, erection, construction, improvement, or alteration of a structure, or portion thereof, including a fence, that has a fair market value exceeding \$500, except that a zoning permit shall be required prior to all construction or development located in the Floodplain Overlay and the Airport Hazard Overlay, regardless of cost;
- (3) The alteration or improvement of any existing structure, where such improvement or alteration thereof increases the amount of space enclosed by the structure;
- (4) The alteration or development of any improved or unimproved real estate; and
- (5) The erection or alteration of any signs specified in Article 8, except for those specifically exempted from permit.

(b) No zoning permit shall be required for the following:

- (1) The placement, erection, construction, improvement, or alteration of a structure, or portion thereof, including a fence, that has a fair market value of less than \$500, except that a zoning permit shall be required prior to all construction or development located in the Floodplain Overlay and the Airport Hazard Overlay, regardless of cost;
- (2) Ordinary repair to existing structures, except signs;



- (3) Light fixtures for single-family and two-family dwellings complying with the provisions of Section 5.10;
  - (4) Sidewalks or walkways on grade;
  - (5) Sidewalk or walkway steps, when not connected to a building, porch, deck, or other part of a building or structure;
  - (6) Handrails along sidewalk or walkway steps;
  - (7) Access drives;
  - (8) Parking spaces for dwellings having three (3) or fewer dwelling units;
  - (9) Flagpoles of the display of official government flags of the United States and its political subdivisions placed on lots containing single-family and two-family dwellings, provided that such flagpoles do not exceed the maximum height limitations for the underlying zoning district;
  - (10) Vegetation, including trees, landscaping, and vegetative buffering;
  - (11) Landscaping materials, excluding patios, decks, and porches;
  - (12) Decorative lawn ornaments and walls not exceeding 32 inches in height;
  - (13) Children's play yards, trampolines, treehouses, and swing sets placed on lots containing dwellings;
  - (14) Stormwater management facilities;
  - (15) Traffic control devices located within a public right-of-way or governmental easement;
  - (16) Utility structures not exceeding seven (7) feet in height, including emergency call stations, except that wireless communication facilities and lighting poles for recreational uses shall require permitting;
  - (17) Railroad sidings;
  - (18) Public transit stops involving surface improvements only;
  - (19) Signs specifically exempted from permit; and
  - (20) Temporary construction buildings or trailers as permitted in Section 5.19, Subsection A.
- (c) A zoning permit shall only be issued when it is deemed that the proposed use or improvement is in conformity with:
- (1) All applicable regulations of this Ordinance;

- (2) Any conditions imposed upon the site by the South Abington Township Zoning Hearing Board or the South Abington Township Board of Supervisors; and
  - (3) Any recorded subdivision or land development plan, when specifically required by the adopted subdivision and land development regulations of South Abington Township.
- (d) Application Procedures.
- (1) Applications for zoning permits shall be submitted by the applicant to the Zoning Officer.
  - (2) An application for a zoning permit shall be made by the owner of any building or structure or the agent thereof; provided, however, that if the application is made by a person other than the owner or agent, it shall be accompanied by a written authorization of the owner or agent that the proposed work is authorized by the owner or agent. The full name and address of the owner or agent shall be stated in the application.
  - (3) The Zoning Officer may consult with or call upon other Township staff and/or Township-appointed consultants in the review of submitted materials for applications.
  - (4) Upon receiving the application, the Zoning Officer shall examine the application and grant or deny such application, in whole or in part, within 30 business days of the filing date. If the application or plans do not conform to the provisions of all pertinent ordinances and laws, the Zoning Officer shall deny such application in writing, stating the reasons therefor, and inform the applicant of his or her right to appeal the Zoning Officer's decision to the Township Zoning Hearing Board. If satisfied that the proposed work and/or use conforms to the provisions of this Ordinance and all ordinances and laws applicable thereto and that a certificate of use and occupancy as required herein has been applied for, the Zoning Officer shall grant such zoning permit application.
  - (5) The Zoning Officer may revoke a zoning permit or approval issued under the provisions of this Section in the case of any false statement or misrepresentation of fact in the application or on the plans on which the zoning permit or approval was based or for any other cause set forth in this Ordinance.
  - (6) No zoning permit shall be issued until the fee, in an amount as established from time to time by resolution of the South Abington Township Board of Supervisors, is paid to the South Abington Township. The payment of fees under this Section shall not relieve the applicant or holder of the zoning permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law. Where a zoning permit is required by this Section but the work or the use is commenced or changed prior to obtaining such zoning permit, the fee set by resolution of the South

Abington Township Board of Supervisors shall be doubled to reflect the additional expense incurred by the South Abington Township resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices, and/or process additional applications. The payment of such increased permit fee shall not relieve any person from the compliance with all requirements of this Ordinance or any other applicable ordinances or laws or from any penalties or enforcement actions authorized by this Ordinance or the Pennsylvania Municipalities Planning Code (MPC).

- (7) In all instances in which the Zoning Officer expresses reasonable doubt as to the ability of a proposed use or improvement to meet all of the requirements of this Section, it will be incumbent upon the applicant to furnish adequate evidence in support of his or her application. If such evidence is not presented, the zoning permit will be denied.
- (8) An applicant whose request for a zoning permit has been denied by the Zoning Officer may make a later application for a zoning permit, provided that all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to conduct a new review of the application if this condition is not met.
- (9) The zoning permit shall expire after one (1) year from the date of issuance; provided, however, that the permit may be extended every six (6) months for a period not to exceed an additional two (2) years, upon written request by the applicant that demonstrates good cause to the Zoning Officer. When a zoning permit is issued in conjunction with a building permit, the zoning permit shall remain valid for up to five (5) years so long as the building permit is valid.
- (10) The zoning permit shall be a license to proceed with work and shall not be construed as authority to violate, cancel, or set aside any provisions of this Ordinance. The issuance of a zoning permit does not indicate that a building permit will be issued nor is it considered a license to begin work where a building permit is also required.
- (11) All approved zoning permits shall be prominently and continuously displayed on the subject property during construction, renovation, reconstruction, repair, remodeling, or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance or prior to the commencement of actual work on the site, whichever occurs first, and shall remain on display until the site receives its certificate of use and occupancy.

(e) General Application Requirements.

Applications for zoning permits shall contain a general description of the proposed work, development, use, or occupancy of all parts of the structure or land and shall be accompanied by plans in duplicate drawn to scale and showing the following, where applicable:

- (1) The actual dimensions and shape of the lot to be developed;
  - (2) The exact location and dimensions of any structures to be erected, constructed, and/or altered;
  - (3) Existing and proposed uses, including the number of dwelling units, tenant spaces, employees, etc., that all structures are designed to accommodate;
  - (4) The location and number of off-street parking and loading spaces;
  - (5) Utility systems affected and proposed, including the locations of any primary and alternate on-lot sewage disposal systems and the required isolation distances imposed thereupon and any sewer permitting required;
  - (6) Alteration or development of any improved or unimproved real estate;
  - (7) Two (2) copies of any approved highway occupancy or driveway permits;
  - (8) Any supplementary information required as a condition for use or development in the Floodplain Overlay and the Airport Hazard Overlay as detailed in Article 4;
  - (9) Information related to needed conservation plans, nutrient management plans, and erosion and sediment pollution control plans; and
  - (10) Any necessary approvals granted by the Pennsylvania Department of Labor and Industry or any other state agencies.
- (f) Additional Application Requirements for Nonresidential Uses.

Applications for zoning permits for uses of a nonresidential nature shall also contain, where applicable:

- (1) A location plan showing the lot(s) to be developed, zoning district boundaries, adjoining lots, significant natural features, and streets for a distance of 200 feet from all lot boundaries;
- (2) A plot plan of the lot showing the location of all existing and proposed buildings, structures, driveways, parking lots, access drives, circulation patterns, curb cut accesses, screening fences and walls, waste and sewage disposal areas, other construction features, and the location of all topographical features;
- (3) A description of the proposed operations in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or noxious matter or radiation;
- (4) Designation of the manner by which sanitary sewage and stormwater shall be conveyed and water supply obtained;

- (5) The proposed number of shifts to be worked and the maximum number of employees on each shift; and
- (6) Where use by more than one (1) business/firm is anticipated, a list of the businesses/firms which are likely to be located in the development, their floor area, and estimated number of employees for each.

2. Certificates of Use and Occupancy.

- (a) It shall be unlawful to use and/or occupy any building, structure, sign, and/or land or portion thereof for which a zoning permit is required herein until a certificate of use and occupancy for such building, structures, sign, and/or land or portion thereof has been issued by the Zoning Officer. The application for issuance of a certificate of use and occupancy shall be made at the same time as an application for a zoning permit is filed with the Zoning Officer.
- (b) The application for a certificate of use and occupancy shall be in such form as the Zoning Officer prescribes and may accompany the application for a zoning permit.
- (c) The application for a certificate of use and occupancy shall contain the intended use and/or occupancy of any building, structure, sign, and/or land or portion thereof for which a zoning permit is required herein.
- (d) The Zoning Officer or his or her assign shall inspect any building, structure, or sign within 10 days upon notification that the proposed work that was listed under the zoning permit has been completed, and if satisfied that the work is in conformity and compliance with the work listed in the issued zoning permit and with all other pertinent provisions, ordinances, and laws, shall issue a certificate of use and occupancy for the intended use listed in the application.
- (e) Upon request of a holder of a zoning permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a building, structure, sign, and/or land, or portion thereof, before all work covered by the zoning permit has been completed provided that such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. Such temporary certificates shall be valid for a period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months, unless an extension of the temporary permit has been requested from and granted by the Zoning Officer.
- (f) A certificate of use and occupancy shall not be issued for buildings and structures located in subdivisions or land developments requiring improvement guarantees until the building or structure has access to either a roadway which has been dedicated to and accepted by the Township or which abuts upon a street which has been paved with a base wearing course.
- (g) The certificate of use and occupancy or a copy thereof shall be kept available for official inspection at all times.

- (h) If a zoning permit and/or building permit is not required, a certificate of use and occupancy will still be required.
3. Building Permits.
- (a) Building permit administration shall be governed by provisions of the current building code adopted by South Abington Township; provided, however, that no building permit shall be deemed valid until the Zoning Officer has certified that the proposed building, structure, addition, or alteration thereto or any change of use complies with all of the provisions of this Ordinance and has issued to the applicant a zoning permit.
  - (b) The building permit shall be a license to proceed with work and shall not be construed as authority to violate, cancel, or set aside any provisions of this Ordinance. The issuance of a building permit does not indicate that a zoning permit will be issued nor is it considered a license to begin work where a zoning permit is also required.
  - (c) The Zoning Officer shall deny any permit authorized by this Ordinance to any applicant to whom a permit may be denied pursuant to the Neighborhood Blight Reclamation and Revitalization Act, Act 90 of 2010, 53 Pa.C.S.A. § 6101 et seq.

### **Section 11.2 – Zoning Officer**

#### **A. Appointment and Powers of the Zoning Officer.**

It shall be the duty of the Zoning Officer to:

1. Examine, record, and file all applications for zoning permits, with any accompanying plans and documents, and to issue such permits only for lots, uses, and structures which are in conformity with the provisions of this Ordinance or which are permitted nonconformities as regulated by Article 9;
2. Initiate enforcement proceedings;
3. Receive all fees to the Township as required by this Ordinance and to post a schedule of fees in the South Abington Township Municipal Building;
4. Receive complaints and notify persons of violations of the provisions of this Ordinance;
5. Conduct inspections of property for which zoning permits have been issued to ascertain if the construction or use is in conformity with the provisions of the permit;
6. Present to the South Abington Township Board of Supervisors, Planning Commission, or Zoning Hearing Board such facts, records, and any similar information required to assist such bodies in their deliberations;
7. Keep records of all applications received, permits and certificates of use and occupancy issued, reports of inspection, and notices and orders issued, and to file and safely keep copies of all plans permitted, which shall be available for the use of the

- South Abington Township Board of Supervisors and other South Abington Township officials;
8. Keep current copies of this Ordinance and the Zoning Map for distribution to the public; and
  9. To perform other duties in the administration and enforcement of this Ordinance as may be directed by the South Abington Township Board of Supervisors.

### **Section 11.3 – Fees**

- A. The South Abington Township Board of Supervisors shall establish, by resolution, a schedule of fees and a collection procedure for all permits, applications, and appeals.
- B. The schedule of fees shall be available in the South Abington Township Municipal Building.
- C. All such fees shall be payable to South Abington Township.
- D. No request for any permits, applications, or appeals shall be considered complete, nor shall they be filed or docketed, until all fees have been paid in full.

### **Section 11.4 – Violations, Penalties, and Remedies**

- A. Causes of Action.

In case any building, structure, landscaping, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, the South Abington Township Board of Supervisors or an officer of the Township, with the approval of the South Abington Township Board of Supervisors, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, 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. When any such action is to be instituted by a landowner or tenant, notice of that action shall be served upon Township at least 30 days prior to the time the action is to be instituted by serving a copy of the complaint on the South Abington Township Board of Supervisors. No such action may be instituted until such notice has been given.

- B. Enforcement Notices.

1. If it appears to the Township that a violation of this Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Subsection.
2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

3. An enforcement notice shall be in writing and shall state at least the following:
    - (a) The name of the owner of record and any other person against whom the Township intends to take action;
    - (b) The location of the property in violation;
    - (c) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance, and an outline of remedial action which, if taken, will bring such property compliance with the provisions of this Ordinance;
    - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
    - (e) A statement that the recipient of the notice has the right to appeal to the Zoning Hearing Board; and
    - (f) A statement 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.
  4. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
  5. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
- C. Penalties and Remedies.
1. District Justices shall have initial jurisdiction over proceedings brought under this Ordinance.
  2. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor 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, in assessing if there has been a further violation, determines that there was a good faith basis for the person, partnership, or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation.



3. The Lackawanna County Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
4. Nothing contained in this Ordinance 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 Ordinance.

### **Section 11.5 – Planning Commission**

The South Abington Township Planning Commission has been created in accordance with Article II of the Pennsylvania Municipalities Planning Code (MPC) to fulfill the advisory role to the South Abington Township Board of Supervisors in the administration of this Ordinance and the adopted subdivision and land development regulations of South Abington Township.

#### **A. Membership.**

1. The membership of the Planning Commission shall consist of seven (7) members, all of whom shall be residents of the Township. At least three (3) of the seven (7) members shall be citizen members and shall not be officers or employees of the Township.
2. The term of office for each member shall be four (4) years, and the terms of no more than two (2) members shall expire in any calendar year.
3. When any vacancies occur, the chairman of the Planning Commission shall promptly notify the South Abington Township Board of Supervisors, upon which a member of the South Abington Township Board of Supervisors shall fill the vacancy for the unexpired portion of the term until a replacement member is found.

#### **B. Duties.**

The Planning Commission shall, at the request of the South Abington Township Board of Supervisors, have the power and shall be required to, at the request of the South Abington Township Board of Supervisors:

1. Represent the Township in the development of the Scranton-Abingtons Planning Association Comprehensive Plan and any future comprehensive plan;
2. Maintain and keep records of its actions, which shall be in the possession of the South Abington Township Board of Supervisors;
3. Make recommendations to the South Abington Township Board of Supervisors concerning adoption or amendment of an official map;
4. Prepare and present to the South Abington Township Board of Supervisors a zoning ordinance and make recommendations to the South Abington Township Board of Supervisors on proposed amendments to it; and

5. Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Pennsylvania Municipalities Planning Code (MPC) or as prescribed in this Ordinance.

### **Section 11.6 – Amendments**

#### **A. Publication, Advertisement, and Availability of Ordinances and Amendments.**

Proposed zoning ordinances and amendments shall be published, advertised, and available for review in accordance with the procedures found in Section 610 of the Pennsylvania Municipalities Planning Code (MPC).

#### **B. Zoning Map Amendments (Rezoning).**

##### **1. Purpose of Rezoning.**

Rezoning can be initiated to protect the safety, capacity, and efficiency of the Township's existing infrastructure systems; to maintain fiscal responsibility; and to uphold the objectives of the Scranton-Abingtons Planning Association Comprehensive Plan.

##### **2. Rezoning Applications.**

Rezoning applications are completed on the official forms provided by the Zoning Officer. All applicants submitting rezoning applications are required to prepare a series of plans, analyses and reports as enumerated by the following, to demonstrate the compatibility of a rezoning proposal:

- (a) Statement of existing and proposed base and overlay zoning districts;
- (b) Conceptual site development plan;
- (c) Topographic survey;
- (d) Site conditions report;
- (e) Estimated infrastructure demands (sanitary sewer and potable water) in gallons per day;
- (f) Off-street parking projections (number of parking spaces) available on site;
- (g) A summary of anticipated impacts on adjoining lots including but not limited to noise, vibration, night-time lighting, service area locations and visibility, and hours of operation;
- (h) Other related studies that the Township may require, depending upon the location of lot access, infrastructure service/demands, and impacts identified on adjoining lots, such as a:
  - (1) Traffic impact study;

- (2) Fiscal impact analysis;
  - (3) Density comparison between existing and proposed zoning districts; and/or
  - (4) Geotechnical/stormwater analysis.
3. Review of Rezoning Applications.
- (a) The Zoning Officer will:
    - (1) Perform a review of the application and packet for completeness. An incomplete or insufficient application and packet will be returned to the applicant. A completed application and packet will be forwarded to the Township and Lackawanna County planning commissions for review;
    - (2) Provide the applicant written confirmation within seven (7) business days stating that the application has been received with all required information; and
    - (3) Submit a written recommendation to the Planning Commission and the South Abington Township Board of Supervisors, either in favor of or not in favor of the rezoning proposal, including a specific statement as to whether or not the proposed rezoning is in accordance with the objectives of the Scranton-Abingtons Planning Association Comprehensive Plan;
  - (b) As part of the rezoning approval process, the South Abington Township Board of Supervisors and Planning Commission can consider the motivation and implications of each plan, analysis, and report.
  - (c) The Planning Commission will:
    - (1) Consider any projected beneficial and/or detrimental effects on the Township and hold a public hearing on the application, if deemed applicable; and
    - (2) Forward to the South Abington Township Board of Supervisors a recommendation for the nature of action regarding rezoning.
  - (d) The Lackawanna County Planning Commission shall review such requests and provide comments as necessary to the South Abington Township Board of Supervisors and Planning Commission.
  - (e) The South Abington Township Board of Supervisors will hold a public hearing on the application and may compose a brief summary explanation of its decision and will forward the decision and explanation to the applicant. Upon rezoning approval, the Zoning Officer will update the Zoning Map accordingly.

C. Zoning Ordinance Amendments.

The South Abington Township Board of Supervisors may, from time to time, amend, supplement, or repeal any of the regulations and provisions of this Ordinance. The

enactment of a zoning amendment shall be in accordance with Section 609 of the Pennsylvania Municipalities Planning Code (MPC).

D. Curative Amendments.

1. Landowner Curative Amendments.

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, shall submit to South Abington Township a curative amendment, any fees established by resolution of the Township, and a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1 of the Pennsylvania Municipalities Planning Code (MPC). The South Abington Township Board of Supervisors shall commence the associated procedures in accordance with Section 609.1 of the Pennsylvania Municipalities Planning Code (MPC).

2. Municipal Curative Amendments.

If the South Abington Township Board of Supervisors determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take actions in accordance with Section 609.2 of the Pennsylvania Municipalities Planning Code (MPC).

INTERNAL DRAFT