

Chapter 285 ZONING

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ARTICLE I

Title; Intent; Community Development Objectives; Interpretation; Conflict; Municipal Uses

§ 285-1. Short title and effective date.

This chapter shall be known and may be cited as the "Upper Frederick Township Zoning Ordinance of 1991" and shall become effective upon enactment.

§ 285-2. Declaration of legislative intent. [Amended 4-10-2008 by Ord. No. 2008-05]

This chapter is enacted for the purpose of promoting the health, safety, morals and the general welfare of the Township. This chapter has been adopted in accordance with the Comprehensive Plan adopted by the Township and in recognition of the provisions and uses provided by the Regional Comprehensive Plan adopted by the Central Perkiomen Valley Regional Planning Commission and its members and is designed to lessen congestion on the roads and highways, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue congestion of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, to conserve the value of buildings and to encourage the most appropriate use of land throughout the Township.

§ 285-3. Statement of community development objectives.

In applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and the general welfare of the Township. The Comprehensive Plan in accordance with which this chapter is enacted and which is reflected in the provisions of this chapter have been formulated to implement the purpose set forth in § 285-2, in the respects therein stated and more particularly with a view toward, inter alia, the following statement of community development objectives:

- A. Guide and encourage the future development of the Township in accordance with comprehensive planning of land use and population density that represents the most beneficial and convenient relationships among the residential, commercial, industrial and recreational areas within the Township.
- B. Have regard for the suitability of the various uses appropriate to each of them and their potential for such uses as indicated by topography and soil conditions, existing man-made conditions, trends in population, the direction and manner of use of land, building development and economic activity.
- C. Consider such conditions and trends both within the Township and with respect to the relationship of the Township to surrounding areas.
- D. Protect the character and the social and economic stability of each of such areas and encourage their orderly and beneficial growth.
- E. Protect and conserve the value of land and buildings throughout the Township, depending upon necessity of circumstances appropriate to the various zoning districts established herein.
- F. Bring about through proper timing of gradual conformity of land use to the Comprehensive Plan aforesaid, and minimize conflicts among the uses of land and buildings.
- G. Aid in bringing about the most beneficial relationship between land use and in the circulation of traffic throughout the Township, having particular regard to traffic to and from the major roads, and to the avoidance of congestion on the roads and the provision of safe and convenient access

appropriate to the various land uses.

- H. Aid in providing a guide for public policy and action in the efficient provision of public facilities and services, in the provision of safe and proper sanitary sewage disposal, and for private enterprise in building development, investment and other economic activity relating to land use.

§ 285-4. Interpretation.

To the extent that such objectives are consistent with the purposes set forth in § 285-2 and with the minimum requirements therefore, the provisions of this chapter shall be interpreted, administered and applied in such manner as will facilitate attainment of the said objectives, and all others permitted by law.

§ 285-5. Conflict.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter; provided, that where this chapter imposes greater restrictions upon the use of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of such ordinance, enactment, rule regulation or permit, then the provisions of this chapter shall control.

§ 285-5.1. Municipal uses. [Added 9-8-2016 by Ord. No. 2016-06]

The provisions of this chapter shall not apply to any building of the Township, or extension thereof, or to the use of any premises by the Township, if the Board of Supervisors shall decide that such building, or extension thereof, or such use of any premises, is reasonably necessary for the convenience or welfare of the public.

ARTICLE II
Administration

§ 285-6. Declaration of legislative intent.

In expansion of, and in addition to, the declaration of legislative intent and statement of community objectives found in Article I, §§ 285-2 and 285-3, of this chapter, it is the intent of this article to promote the public health, safety, morals and general welfare of the Township inhabitants by providing specific duties and responsibilities of the Zoning Officer in the issuance of building and occupancy permits, and the procedures for obtaining the same, as contained in this article.

§ 285-7. Appointment of Zoning Officer.

The provisions of this chapter shall be administered and enforced by a Zoning Officer.

- A. The Board of Supervisors shall annually appoint to a one year term a Zoning Officer who shall meet qualifications established by the Board of Supervisors and demonstrate a working knowledge of municipal zoning. The Zoning Officer may succeed himself.
- B. The Zoning Officer shall receive compensation as determined by resolution of the Board of Supervisors.
- C. The Zoning Officer shall make reports to the Board of Supervisors as the may require.

§ 285-8. Zoning Officer's authority and responsibilities. [Amended 8-13-1998 by Ord. No. 98-4]

The Zoning Officer shall not have the power to permit any activity which does not conform to the provisions of this chapter. The Zoning Officer shall have the authority to perform the following responsibilities:

- A. Receive all applications for building permits and use and occupancy permits.
- B. Keep a public record of those applications filed including:
 - (1) All relevant plans and information submitted therewith.
 - (2) All applications for permits.
 - (3) All permits issued in accordance with this chapter.
 - (4) Any special conditions attached thereto.
- C. Review applications for zoning permits for erection or alteration of structures or changes in use, determine whether such construction or use is in accordance with the general requirements of this chapter, all other applicable ordinances and with the laws and regulations of the commonwealth.
- D. Issue permits only in response to those applications which are in compliance with this chapter, all other applicable ordinances, and the laws and regulations of the Commonwealth of Pennsylvania which.
 - (1) When the Zoning Hearing Board grants a special exception or variance, the application shall be considered in compliance with this chapter for the purpose of issuing permits; the Zoning Hearing Board shall be made a part of the public record of these applications.

- (2) When the Board of Supervisors grants a conditional use, the application shall be considered in compliance with this chapter for the purpose of issuing permits; the Board of Supervisors action shall be made a part of the public record of these applications.
 - (3) The Zoning Officer shall issue permits in regard to such applications only upon receipt of written evidence from the Zoning Hearing Board attesting to the granting of the special exception or variance, or from the Board of Supervisors confirming the approval of a conditional use application.
- E. Enlist the assistance of other municipal agents and agencies in performing these responsibilities.
 - F. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter. In carrying out such surveys, the Zoning Officer or his/her representative may enter upon land or buildings, within the limits of the law.
 - G. Make written orders requiring compliance with the provisions of this chapter to be served personally or by certified mail. Issue any cease and desist orders for violations, as directed by the Board of Supervisors.
 - H. Institute proceedings in courts of proper jurisdiction for the enforcement of provisions of this chapter, at the direction of the Board of Supervisors.
 - I. Have available a map showing the current zoning classification of all land.
 - J. Maintain a record of the identity, location and type of uses, including structures, lots and signs, assigned nonconforming status, as well as documentation of the evidence and reasoning that led to the assignment of nonconforming status.
 - K. Participate in proceedings before the Zoning Hearing Board, either at the request of the Board of Supervisors as a representative of the Township, or at the request of the Zoning Hearing Board as a sworn witness presenting facts and information.
 - L. Perform any other duties as directed by the Board of Supervisors.

§ 285-9. Building and/or use and occupancy permits.

- A. The requirements for the application, review and issuance of building or demolition permits are found in Chapter 112, Code Enforcement, Article II, of the Code of the Township of Upper Frederick, as amended.
- B. A use and occupancy permit shall be required for:
 - (1) Use and occupancy of any new construction, or any new alteration or addition to an existing structure, whether or not a building permit is required.
 - (2) Change in use of all or any part of any building or structure, whether or not the change involves physical alteration to the building or structure.
 - (3) Use of land or change in the use of land, except that the placing of vacant land into agricultural or forestry uses shall not require a use and occupancy permit.
 - (4) Change in use of a nonconforming use.
 - (5) Change of occupancy in any commercial or industrial establishments. All new occupants of

buildings shall be required to apply for and obtain a use and occupancy permit.

- C. It shall be a violation of this chapter for any person to use or occupy any building, structure or land until a use and occupancy permit has been issued.

§ 285-10. Applications for permits.

- A. Applications. Applications for building permits and for use and occupancy permits shall be made in writing by the owner or authorized agent, and shall be filed with the Zoning Officer on forms obtained from him. The Zoning Officer shall require with the application some or all of the following depending whether the permit is for alteration or development of a previously undeveloped property:
 - (1) A statement as to the proposed use of the building.
 - (2) A plan, drawn to scale, showing the location of the building in relation to property and right-of-way lines.
 - (3) A statement that the property and right-of-way lines shown on the plan have been located and staked on the premises by a surveyor or other person competent to give such location.
 - (4) The name and address of the person who has so located and stake the lines.
 - (5) A copy of the decision of the Zoning Hearing Board granting any special exception or various required for the proposed use or building.
 - (6) Other specific information relevant to making a decision regarding the permit.
- B. Completion of construction. Upon completion of the construction, addition to, or alteration of any building or structure authorized by any building permit obtained in compliance with this chapter, and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion. Use and occupancy shall not be authorized until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with this and other applicable ordinances, and the permit fee has been paid.
- C. Temporary use and occupancy. Pending completion of a building or alterations thereto, a temporary use and occupancy permit may be issued with limits and conditions as established by the Zoning Officer for a temporary occupancy of a part or all of a building, provided that such temporary occupancy would not lend in any way to jeopardize life or property.
- D. No implied warrant. Issuance of a use and occupancy permit, or temporary use and occupancy permit, shall in no way be construed to warrant in any way the workmanship, safety or quality of the structure or building materials used to construct the said structure or alterations thereto.

§ 285-11. Issuance or refusal of permit.

If the Zoning Officer determines that an application is in compliance with the provisions of this chapter, it shall be his duty to issue the appropriate permit; and if he determines that an application is not in compliance with the provisions of this chapter, it shall be his duty to refuse the permit, in which case he shall instruct the applicant in the method, as hereinafter set forth, of appeal or application to the Zoning Hearing Board.

§ 285-12. Appeal from Zoning Officer's decision.

An appeal from the decision of the Zoning Officer shall be made within 30 days, according to the procedures described herein.

§ 285-13. Expiration of permits.

Permits shall expire six months after the date of issuance unless the permittee shall have commenced substantial construction or utilization of the property which is the subject of the permit in accordance with the intent thereof.

§ 285-14. Violations.

It shall be the duty of the Zoning Officer to take cognizance of violations of this chapter. He shall investigate each violations which come to his attention whether by observation or communication by any person or agency. He shall order in writing the correction of such conditions as are found to be in violation of this chapter.

§ 285-15. Enforcement notice.

An 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. The notice of enforcement shall include:

- 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 that have not been met, citing in each instance the applicable provisions of this chapter.
- D. The date on which expires the period in which compliance with this chapter is to be achieved.
- E. A statement describing the recipient's right to appeal to the Zoning Hearing Board within 30 days of receipt of the notice.
- 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.

§ 285-16. Enforcement proceedings.

- A. If a violation is not corrected within the period specified by the enforcement notice, it shall be the duty of the Zoning Officer to notify the Board of Supervisors, who shall take necessary action to correct the violation, which action may include initiation of a civil enforcement proceeding.
- B. Where, in the opinion of the Zoning Officer, a violation presents peril to life or property, the Zoning Officer may recommend to the Board of Supervisors immediate initiation of a civil enforcement proceeding.

§ 285-17. Enforcement remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. Each day that a violation continues shall constitute a separate violation.
- B. Causes of action. An aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by an alleged violation of this chapter, may institute any appropriate action or proceeding to prevent, restrain, correct or abate the violation.
- (1) When any action is instituted by a landowner or tenant, the Township shall be notified at least 30 days prior to the time the action is begun.
 - (2) Notice must be given by serving a copy of the complaint to the Board of Supervisors. No action may be maintained until such notice has been given.

§ 285-18. Fees.

The fees for permits, applications for special exceptions, applications for variances, Zoning Hearing Board certificates, etc., and other charges associated with this chapter shall be fixed in accordance with a fee schedule adopted by a resolution of Board of Supervisors upon the enactment of this chapter and such schedule may be amended from time to time by resolution of the Board of Supervisors.

ARTICLE III
Amendments

§ 285-19. Power of amendment.

The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map, by proceeding in the following manner, and as otherwise required by law.

§ 285-20. Application for amendment. [Amended 8-13-1998 by Ord. No. 98-4]

Every application for amendment of this chapter shall first be presented for review by the Board of Supervisors and shall contain the following:

- A. The name, address and interest of each person represented by the application, and the name and address of the applicant's representative.
- B. A plan or map showing the extent of the area to be rezoned or districts to be affected, streets bounding and intersecting the area, land use and zoning classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
- C. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies as reason for supporting the proposed rezoning.
- D. The approximate time schedule for the beginning and completion of development in the area.
- E. A site plan to scale indicating the location of structures, uses, area for off-street parking and loading.
- F. Information about the market area to be served by the proposed development, if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area.
- G. A community impact analysis with sufficient information regarding traffic, water supply, sewage disposal, environmental issues and any other issues relevant to the proposal.
- H. All review required by the Pennsylvania Department of Transportation and Environmental Protection.
- I. Fee as established by the Board of Supervisors.

§ 285-21. Review procedure.

Upon receipt of a complete application and appropriate fee, the Board of Supervisors shall review and consider the application as follows:

- A. Prior to voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing pursuant to public notice, at a time and place fixed by resolution adopted at a regular or special meeting.
- B. The application shall be referred to the Planning Commission when not prepared by them, and a period of 30 days prior to the public hearing allowed for their review and comment.
- C. The application shall be referred to the Montgomery County Planning Commission and a period of 30 days prior to the public hearing allowed for their review and comment.

§ 285-22. Public notice. [Amended 6-13-2002 by Ord. No. 02-09]

- A. Notice of hearing. Notice of the hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and 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. The notice shall include reference to the time and place of the hearing as well as the place in the Township where copies of the amendment may be examined without charge or obtained for the cost of reproduction.
- B. Publication of text. The full text of the proposed amendment, or a reasonable detailed summary prepared by the Township Solicitor, shall be published once in a newspaper of general circulation in the Township, no less than seven days and not more than 60 days before a vote of enactment. If the full text is not published:
 - (1) A copy of the full text shall be supplied to the publishing newspaper at the time of publication.
 - (2) An attested copy of the full text shall be filed in the Montgomery County Law Library.
- C. Mailed notice. Notice shall be mailed to every person or group who shall have registered with the Township their names and addresses for this purpose.
- D. Perimeter posting. If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be mailed at least 30 days prior to the date of the hearing, by first class mail, to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, and shall be conspicuously posted along the perimeter of the affected tract by the Township at least one week prior to the public hearing, at points deemed by the Township to be sufficient to notify potentially interested citizens. The notice shall include the location, date and time of the public hearing.
- E. Change to amendment. If, after any public hearing, the proposed amendment is changed substantially or is revised to include land not previously affected, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to a vote on the amendment.
- F. Notice of change to amendment. Where a public hearing is required in accordance with Subsection E, above, at least 10 days before voting to enact the Board of Supervisors shall publish in a newspaper of general circulation in the Township a brief summary setting forth in reasonable detail the provisions of the amendment along with a summary of the changed portions of the amendment.

§ 285-23. Enactment.

- A. The Board of Supervisors shall vote on the proposed amendment within 60 days of the last publication of the text, or new publication shall be required.
- B. The Board of Supervisors shall vote on the proposed amendment within 90 days of the last public hearing, or a new public hearing shall be required.
- C. Within 30 days of enactment, a copy of the amendment shall be forwarded to the Montgomery County Planning Commission.

§ 285-24. Curative amendments.

Township curative amendments or citizen challenge and curative amendments submitted to the Board of

Supervisors shall be considered in accordance with the provisions and procedures of the Pennsylvania Municipalities Planning Code, as amended.

ARTICLE IV
Zoning Hearing Board

§ 285-25. Appointments. [Amended 2-9-1995 by Ord. No. 95-4]

The Board of Supervisors shall appoint a Zoning Hearing Board consisting of three members. The Board of Supervisors shall designate one such member to serve until the first day of January following the original effective date of this chapter, one until the first day of the second January thereafter, and one until the first day of the third January thereafter; shall reappoint or appoint three successors on the expiration of their respective terms to serve three years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant.

- A. The members of the Zoning Hearing Board shall be removable for cause by the Board of Supervisors upon written charges and after a public hearing.
- B. Zoning Hearing Board members shall be residents of the Township and may hold no other office in the Township.
- C. The word "Board" when used in this article shall mean the Zoning Hearing Board.
- D. Where legal counsel is desired, an attorney, other than the Solicitor of the Township, may be appointed to serve as counsel to the Zoning Hearing Board.
- E. The compensation of the members and alternates to the Zoning Hearing Board shall be established by resolution of the Board of Supervisors, but, in no case, shall the compensation exceed the rate of compensation authorized to be paid to the Supervisors.

§ 285-26. Alternate members.

The Board of Supervisors may appoint by resolution no more than three residents of the Township to serve as alternate members of the Board. The term of office of an alternate shall be three years.

- A. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. An alternate so designated shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this article and as otherwise provided by law.
- B. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.
- C. Designation of an alternate shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- D. Alternate members may hold no other office in the Township.
- E. Any alternate may participate in any proceeding or discussion of the Board but may not vote as a member nor be compensated unless designated as a voting alternate as provided above.

§ 285-27. Organization of Board.

- A. The Board shall annually elect officers from its membership.
- B. For the conduct of any hearing and the taking of any action, a quorum shall be no less than two voting members.
- C. The Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Township and the laws of the commonwealth.
- D. The Board shall keep a public record of its business, which records shall be the property of the Township, and shall submit reports of its activities to the Township as requested by the Board of Supervisors.

§ 285-28. Jurisdiction.

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

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to the curative challenge and amendment process.
- 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 filed within 30 days after the effective date of said ordinance.
- C. Appeals from the determination of the Zoning Officer, including the grant or denial of any permit, or failure to act on the application therefor, the issuance of any enforcement notice 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 the floodplain ordinance or such provisions within a land use ordinance.
- E. Applications for variance from the terms of this chapter.
- F. Applications for special exceptions under the zoning or floodplain ordinance.
- G. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of ordinance provisions for sedimentation and erosion control and stormwater management insofar as the determination does not involve an application pursuant to Chapter 240, Subdivision and Land Development.
- H. Interpretation of the words, terms, rules, regulations, provisions and restrictions of this chapter where there is doubt as to the meaning thereof, including determination in specific instances whether questionable uses are permitted by virtue of being "similar to" or "customarily incidental to" permitted uses as provided by this chapter.

§ 285-29. Orders.

When the order, requirement, decision or determination of a Township officer is appealed to the Board, the Board shall have the power to reverse or affirm in whole or in part, and the decision of the Board shall be enforced as though it were the decision of the officer appealed from.

§ 285-30. Appeal or applications to Zoning Hearing Board.

Challenges and appeals may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for variance or special exception may be filed by any landowner or any tenant with permission of the landowner. An appeal or application regarding a matter within the jurisdiction of the Board may be filed with the Township Secretary on forms provided by the Zoning Hearing Board. The applicant shall provide seven copies of the application and accompanying materials, which shall include:

- A. The name and address of the applicant, and of the applicant's representative(s) or agent(s) where applicable.
- B. The name and address of the record owner of the property that is the subject of the application or appeal. Where the applicant is not the record owner of the subject property, a signed and notarized statement from the record owner, authorizing the applicant to pursue the specific appeal or application.
- C. A brief description and location of the subject property, along with a survey and/or sketch of the property boundaries.
- D. A statement of the present zoning classification of the subject property with the improvements thereon, and the present use thereof.
- E. A statement of the section of this chapter under which consideration by the Board is requested, along with a summary of reasons or arguments in support of request.
- F. A reasonably accurate description of the improvements or changes intended to be made under the application. In addition, there shall be attached a plot plan of the property to be affected, indicating the location and size of the lot, and the size and location of the existing and proposed improvements or changes.
- G. Any and all additional information that may be required by the Zoning Hearing Board.
- H. Payment to the Township in accordance with a fee schedule recommended by the Board and adopted by the Township Board of Supervisors, as amended.
 - (1) Such fees may include compensation for the secretary and members of the Board, notice and advertising costs, stenographic costs in accordance with § 285-33F herein, and necessary administrative overhead connected with the hearing.
 - (2) The fees may not include compensation for the legal expenses of the Board, or expenses for engineering, architectural or other technical consultant or expert witness fees.
 - (3) All permissible costs shall be borne by the applicant, based on an itemized list of expenses.

§ 285-31. Action on application or appeal.

- A. Immediately upon receipt of an application, the Township Secretary shall promptly forward the application to the Zoning Hearing Board Chairperson along with all of the above information.
- B. The Chairperson, in consultation with the Zoning Hearing Board Solicitor, shall fix a reasonable time and place for a public hearing on the application. Said hearing shall occur no more than 60 days after the application is made to the Secretary, unless the applicant has agreed in writing to an extension of time.

- C. A true and correct copy of the application and all related information shall be forwarded to the Township Secretary, the Chairperson of the Planning Commission, each Township Supervisor, each Zoning Hearing Board member and the Zoning Hearing Board Solicitor.
- D. Upon receipt of a Zoning Hearing Board application, the Planning Commission at its next regularly scheduled meeting may consider the application and may, at its sole discretion, resolve to comment thereon.

§ 285-32. Public notice and written notice of hearing.

The Board shall give public notice and written notice as follows:

- A. By publishing a notice once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing, the particular nature of the matter to be considered at the hearing and the specific ordinance provisions that permit consideration by the Zoning Hearing Board. The first publication shall not be more than 30 days and the second not less than seven days from the date of the hearing.
- B. By mailing or serving written notice to the record owner, applicant and applicant's representative.
- C. By conspicuously posting written notice of hearing on the affected tract of land at least one week prior to the meeting.
- D. By mailing or serving notice thereof to the Township Supervisors, Planning Commission Chairperson, Zoning Hearing Board members and Zoning Officer.
- E. By mailing or giving written notice to any and all parties in interest who have made a timely request for the notice.
- F. By mailing a written notice to any and all parties registered for that purpose.
- G. By mailing a written notice to all landowners within 500 feet of the applicant's land in Upper Frederick Township and adjacent municipalities, where appropriate, by certified mail with return receipts requested.
- H. By providing a list of names and addresses of all parties who have been mailed or served notice, to the applicant, the Township Supervisors, Planning Commission Chairperson, all Zoning Hearing Board members and the Zoning Officer.
- I. Costs of mailing, posting and serving notices shall be paid by the applicant as part of the fees charged for the hearings, in accordance with § 285-30H, herein.

§ 285-33. Hearing procedures. [Amended 6-13-2002 by Ord. No. 02-09]

- A. Hearing shall be held at the call of the Chairperson and at such times as the Board may determine. The first hearing shall be commenced within 60 days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time. Each subsequent hearing shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant

may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- B. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided for that purpose.
- C. The Chairperson or acting Chairperson may administer oaths and issue subpoenas to compel the attendance of witnesses and productions of relevant documents and appears, including witnesses and documents requested by the parties.
- D. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- E. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- F. The Board shall keep a stenographic record of the proceedings.
 - (1) The appearance fee for a stenographer shall be shared equally by the applicant of the applicant and the Board.
 - (2) The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost.
- G. Except upon notice and opportunity for all parties to be present, to participate, and to inspect and contest materials, the Board shall not:
 - (1) Communicate, directly or indirectly, with any party or his representative in connection with any issue involved.
 - (2) Take notice of any communication, reports, staff memoranda or other materials, except advice from their Solicitor.
 - (3) Or inspect the subject site or its surroundings after commencement of hearings with any party or his representatives.

§ 285-34. Decision of Zoning Hearing Board. [Amended 6-13-2003 by Ord. No. 02-09]

- A. The Board shall render a written decision or making written findings on the application within 45 days of the last hearing. Each decision shall be accompanied by findings of fact and conclusions based upon findings. Conclusions based on any provision of a Township ordinance shall contain a reference to the provision.

- B. Except for challenges filed under § 285-37C, where the Board fails to render the decision within the required period required by this section, or fails to commence, conduct or complete the required hearing as provided by § 285-33A, 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.
- C. When a decision has been deemed to have been rendered in favor of the applicant because of the failure of the Board to hold a hearing or render a decision as provided, the Board shall give public notice of said deemed decision within 10 days from the last day it could have met to render a decision. Such notice shall be given in the manner prescribed by § 285-31, herein. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- D. A copy of the final decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§ 285-35. General standards for Board review.

In the consideration of an application for variance or special exception, the Board shall:

- A. Consider the suitability of the property for the use desired. Assure itself that the proposed change is consistent with the spirit, purpose and intent of this chapter.
- B. Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the adjacent property is adequately safeguarded.
- C. Determine that the proposed change will serve the best interest of the Township, the convenience of the community (where applicable) and the public welfare.
- D. Determine that the proposed change will serve the best interests of the Township, the convenience of services and facilities such as water, sewer, police and fire protection and schools.
- E. Consider the suitability of the proposed location of use with respect to probable effects upon traffic and assure adequate access arrangements in order to protect roads from undue congestion and hazard.
- F. Be guided in its study, review and recommendation by sound standards of subdivision practice where applicable.
- G. The Board shall be limited to consideration of applications as they relate to ordinance provisions in effect at the time of the application. The Township Board of Supervisors shall retain the exclusive right to enact and amend ordinances.

§ 285-36. Specific standards for variances and special exceptions.

- A. Variance. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:
 - (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 and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.

- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefor necessary to enable the reasonable use of the property.
 - (3) That the unnecessary hardship has not been created by the applicant. Monetary hardship cannot be considered by the Board.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- B. Special exception. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria found in the particular section of this chapter that permits application for said special exception, and with the general standards in § 285-35. In granting any special exception, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
- C. Burden of proof. For variances, the burden of proof shall be on the applicant. For special exceptions, the applicant shall be entitled to the special exception unless others can prove that it would adversely affect the public health, safety, morals or welfare.

§ 285-37. Challenge and appeals.

Decisions on appeals and applications to the Board, other than variances and special exceptions, shall be considered in accordance with the following:

- A. Time limitations on appeals.
- (1) All appeals from determination adverse to a landowner shall be filed by the landowner within 30 days after notice of the determination is issued.
 - (2) Appeals designed to secure reversal or limit the approval of any application for development, preliminary or final, shall be filed with the Board no later than 30 days after the application is approved by an appropriate Township officer or agency, unless the person filing proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- B. Effect of filing. Upon filing of any proceeding before the Board, and during its pendency, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer, agency or body certifies to the Board facts indicating imminent peril to life or property, in which case the development or official action shall not be stayed other than by a restraining order granted by the Board or by the court having jurisdiction of zoning appeals.
- C. Substantive validity challenge. A landowner who desires to challenge, on substantive grounds, the validity of a map or ordinance provision which prohibits or restricts the use or development of land in which he has an interest, may submit the challenge either to the Zoning Hearing Board or, with a request for curative amendment, to the Township Board of Supervisors.

- (1) The written application to the Zoning Hearing Board shall contain the reasons for the challenge.
- (2) Public notice of the hearing shall include notice that the validity of the ordinance or map is in question, and shall specify the place and time where a copy of the request and its accompanying materials may be examined by the public.
- (3) Based upon the testimony at the hearing(s), the Board shall determine whether the challenged ordinance or map is defective, as alleged. If the challenge is found to have merit, the decision of the Board shall include recommended amendments to the challenged ordinance which will cure the defects found.
- (4) In reaching its decision, the Board shall consider the plans and explanatory material submitted by the landowner, and shall also consider:
 - (a) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
 - (b) If the proposal is for residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map.
 - (c) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.
 - (d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - (e) The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health and welfare.
- (5) If the Board fails to act on the request within 45 days of the last hearing, a denial of the request is deemed to have occurred.

§ 285-38. Expiration.

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain any and all permits within one year of the date of the decision. The applicant may apply to the Board for postponement of the expiration, providing in writing an explanation of the reasons why permits were not obtained and a request for a postponement to a specific date. All parties who originally received notification of the Board's decision in the matter shall be notified of the postponement of expiration, at the applicant's expense.

§ 285-39. Appeal to court.

Any persons aggrieved by the decision of the Board may within 30 days thereafter appeal to the Court of Common Pleas of Montgomery County by petition duly verified setting forth the grounds upon which said appeal is taken.

ARTICLE V
Definitions

§ 285-40. Language interpretation.

For purposes of this chapter, certain words shall be interpreted as follows:

- A. Words used in present tense include the future.
- B. The singular number includes the plural and the plural includes the singular.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- D. The word "person" includes an individual, corporation, partnership, incorporated association and/or any other similar entity.
- E. The words "include" or "including" shall not limit the term to the specified examples, but are intended to extend the meaning to all other instances of like kind and character.
- F. The word "building" shall always be construed as if followed by the words "or part thereof."
- G. The word "may" is permissive, and the words "shall" and "will" are always mandatory.
- H. The masculine includes the feminine (he/she, his/her, etc.).

§ 285-41. Definition of terms. [Amended 7-8-1993 by Ord. No. 93-1; 11-14-1996 by Ord. No. 96-6; 3-13-1997 by Ord. No. 97-2; 4-2-1998 by Ord. No. 98-3; 8-13-1998 by Ord. No. 98-4; 9-10-1998 by Ord. No. 98-5; 9-14-2000 by Ord. No. 00-3; 7-10-2003 by Ord. No. 03-02; 8-14-2003 by Ord. No. 03-04]

Words and terms used in this chapter shall have the meanings given in this article. Unless expressly stated otherwise, any pertinent word or term not a part of this listing, but vital to the interpretation of this chapter, shall be construed to have its legal definition, or in absence of a legal definition, its meaning as commonly accepted by practitioners including civil engineers, surveyors, architects, landscape architects and planners.

ACCESS DRIVE — A privately owned, constructed and maintained vehicular access from a public or private right-of-way to off-street parking or loading spaces.

ACCESS STRIP — A piece of land which provides physical access to, and legal road frontage for a lot, but which does not comply with the minimum lot width regulations of this chapter. Access strips shall be a minimum of 50 feet wide and provide access to "rear" or "interior" lot. The area of an access strip shall not be included in the minimum lot area or minimum front yard setback required under the provisions of this chapter.

ACCESSORY STRUCTURE OR BUILDING — A structure detached from a principal building on the sale lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE — A use on the same lot and customarily incidental and subordinate to the principal building or use.

ADDITION — An extension or increase in floor area or height of a building or structure.

ADULT USE — Any business, club or other similar operation which permits patrons, clients, visitors or members to hear, view, read, lease, purchase, trade or exchange, and/or participate in activities, publications, movies, video tapes, and/or live or televised performances which have as their dominant

theme or themes explicit sexual activities and/or the exhibition of portions of the human or animal anatomy which are not normally seen in the public or in commercial or other club-type operations, including the genital areas, buttocks and female breasts, and which are operations may or may not exclude minors by virtue of age. Included in the term "adult use" are bookstores, movie theaters, bars and any other operation which qualifies for inclusion by virtue of the definition above, regardless of the type of other uses or operations which may also be conducted on or in the property or properties involved.

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, silviculture, aquiculture and animal and poultry husbandry and the necessary accessory uses for packing, treating and storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agriculture activities. Included in the term "agriculture" is the use of machinery designed and used for agricultural operations including, but not limited to, crop dryers, feed grinders, sawmills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing, and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work and the movement of crops harvested off-sight to the farmstead property shall be considered normal farming practice.

ALLEY — A minor, vehicular right-of-way, public or private, on which no principal structures front, which serves as the secondary means of access to two or more properties which otherwise front on a public street.

ALTERATION — As applied to building or structure, a change or rearrangement in the structural parts or mechanical equipment, or any enlargement or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

ANCILLARY USE — A subordinate use that is controlled by a larger permitted use. An example is a public garage (tires, batteries and accessories) or garden shop controlled by a department store.

[ANIMAL CARE -- A facility specializing in the care of dogs, cats, or other common household pets. Such use may include animal hospitals, veterinary care and the overnight boarding, breeding, grooming, sale, training, and the like for household pets.](#)

ANIMAL HOSPITAL — A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

ANIMAL HUSBANDRY — The raising and keeping of livestock, fish, fur-bearing animals, honey bees or poultry for any commercial purpose. The keeping of livestock, fish, fur-bearing animals, honey bees or poultry as farm pets or for domestic purposes shall not be construed as animal husbandry.

ANTENNA — A transmitting and/or receiving device used in telecommunications that radiates or captures radio signals.

[ANTENNAS AND SATELLITE DISHES, NONCOMMERCIAL -- Antennas and satellite dishes for home use, ham radio, citizen band \(CB\) radio, and two-way or one-way radio for public safety.](#)

ANTENNA RECEPTION WINDOW — The area which lies between the satellite dish antenna and an orbiting satellite.

ANTENNA SUPPORT STRUCTURE — Any pole, telescoping mast, tower, tripod or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

APPLICANT — A person who has filed an application for approval of a subdivision or land development plans, including his/her heirs, successors, agents and assignees. The term also includes landowner, developer, builder and/or other persons responsible for the plans and construction of buildings or other improvements on any parcel of land.

AQUIFER — An underground bed or stratum of earth, gravel or porous stone that contains water.

AQUIFER RECHARGE AREA — The exposed ground level portion of an aquifer.

ARTISANAL PRODUCTION OR RETAIL MANUFACTURING -- A facility specializing in the manufacture and production of goods created on site by a craftsperson using hand tools and/or small-scale, light mechanical equipment. Examples of such work include pottery, fiber crafts, sculpture, leathercraft, jewelry, soaps, metalwork, cabinetry, stained glass, textile production, candle-making, and handmade food products. Artisan manufacturing may also include demonstration/instruction in the production processes and the display or retail sale of goods produced on site.

AUDITORIUM — A building containing a stage and a seating for meetings and/or performances.

AUTOMOBILE SERVICE -- A facility, building, lot, parcel, use, or group of facilities, buildings, and uses specializing in the service or repair of automobiles, trucks, and other machinery. An automobile service facility may include any of the following services sale and servicing of spark plugs, batteries, distributors, and related parts; tire repair and servicing; replacement of mufflers, tail pipes, hoses, belts, brake fluid, light bulbs, fuses, mirrors, windshield wipers, and similar components; radiator repair, replacement, cleaning, and flushing; greasing and lubrication; repair and replacement of fuel pumps, oil filters, and lines; carburetor servicing and repair; emergency electrical repairs; brake adjustment and repair; engine repair and adjustment; repair or replacement of clutches, transmissions, differentials, axles, and springs; state vehicle inspections and associated repairs; provision of restrooms and informational materials for customers.

~~AUTOMOTIVE REPAIR, MAJOR — Major repairs include any spray painting; body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring removal of cylinder head; repairs of radiator requiring removal thereof; and complete recapping or retreading of tires.~~

~~AUTOMOTIVE REPAIR, MINOR — Includes sale and servicing of spark plugs, batteries and distributors and distributor parts; tire servicing and repair, but not recapping or regrooving; replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like; radiator cleaning and flushing; washing and polishing, and sale of automotive washing and polishing materials; greasing and lubrication; providing and repairing fuel pumps, oil filters and lines; minor servicing and repair of carburetors; emergency electrical repairs; adjusting and repairing brakes; minor motor adjustment not involving removal of the head or crankcase or racing the motor; provision of road maps and other informational material to customers; provision of rest room facilities; and state inspection and normal state inspection repairs.~~

~~AUTOMOTIVE SERVICE STATION — Any premises used for supplying gasoline and oil, tires, accessories and services for motor vehicles at retail direct to the motorist consumer, including minor automotive repair.~~

BANK — A building or portion thereof where the primary use is the processing of credit or monetary transactions. Such use may include ~~includes~~ savings and loan, finance companies, credit unions and other similar financial or fiduciary institutions.

BANK AT FULL FLOW — The highest point of the stream bank corresponding to the flow that just

fills the channel to the top of its banks to a point where the water begins to overflow into a floodplain area.**[Added 9-10-2009 by Ord. No. 2009-07]**

BARN — A large farm building generally used to store farm products, supplies and/or equipment and frequently containing facilities to shelter large live stock or for conducting farm operations such as the milking of cows; or any accessory building that is larger in ground floor area than the dwelling it is accessory to, regardless of the use of the accessory building.

BASEMENT — A space having 1/2 or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6 1/2 feet. A space which does not meet the above criteria is a cellar. For floodplain management purposes, a "basement" means any area of the building having its floor below ground level on all sides.

BED-AND-BREAKFAST — A home occupation that provides one to ten rooms for occasional paying guests on an overnight basis for periods not to exceed 30 days. A bed-and-breakfast is allowed only in an owner-occupied single-family detached dwelling. A residential accessory use consisting of one dwelling unit together with no more than five rooms or suites (accommodating no more than 10 guests) that are rented to overnight or weekly guests and where meal are prepared for the guests by the proprietors. The rented rooms do no contain kitchen facilities and do not contain kitchen facilities and do not constitute a separate dwelling units.

BEST MANAGEMENT PRACTICES (BMPs) — Conservation practices or management measures which control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment and runoff.**[Added 9-10-2009 by Ord. No. 2009-07]**

BLOCK — A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to development.

BOARDING OR ROOMING HOUSE — A commercial use consisting of a single dwelling unit and no more than five rooms or suites (accommodating no more than 10 lodgers) where lodging is provided with or without meals to tenants for periods generally longer than 30 days, for compensation.

BONUS DENSITY — The amount by which development can exceed base zoning with the use of TDRs in a receiving district.**[Added 5-12-2011 by Ord. No. 2011-02]**

BUFFER — An area designed and functioning to separate the elements and uses of land which abut it and to ease the transition between them. Unless otherwise specified, buffer may be included as part of the required setbacks and yard areas. Buffers may be further defined and regulated by this or other Township ordinances to include screen and softening buffer categories.

BUILDING — A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

BUILDING CODE OFFICIAL — The Building Inspector or other person officially appointed by the Township Supervisors to administer and enforce Chapter 112, Code Enforcement, Article II.

BUILDING COVERAGE — The ratio obtained by dividing the maximum horizontal cross-section of all principal and accessory buildings on a lot (including balconies and decks, patios, covered porches, carports and breezeways) by the net lot area of the lot upon which the buildings are located.

BUILDING ENVELOPE — The area of a lot within which a principal building may be erected. This area is defined by the limits of the minimum front, side and rear yard areas, and encompasses the area of the lot not found in the yard areas and rights-of-way.

BUILDING LINE — The line which serves as the rear boundary of the minimum front yard. (See also "yard line.") For the purposes of measuring lot width at the building line the following apply:

- A. For wedge-shaped lots which are narrower at the street than at the rear property line, the building line may be moved back from the minimum front yard depth to a point where the lot width equals the minimum required for the district; provided, that at least 50 feet of street frontage is provided and the lot complies with all other dimensional requirements of the district.

- B. Where "rear" or "interior" lots are permitted, the building line shall be oriented as parallel or concentric to the street from which access is provided as is feasible, and setback from the intervening property line at least the minimum front yard depth.

BUILDING SEPARATION — The horizontal distance between buildings or structures measured from the exterior surface. The measured distance shall not include overhanging eaves, gutters and cornices. **[Added 6-13-2013 by Ord. No. 2013-02]**

CALIPER — Tree diameter measured 2 1/2 feet from the ground.

CAMPGROUND — A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

CAREGIVER — The person responsible for the direct care, protection, supervision and guidance of children in a day care setting.

CARPORT — A building open on two or more sides and used in conjunction with a dwelling for the storage of private motor vehicles.

CARTWAY — The portion of a street or highway designed for vehicular traffic, typically paved.

CELL SITE — A tract or parcel of land that contains the cellular communication antenna, its support structure, accessory building(s) and parking, and may include other uses associated with and ancillary to cellular communication transmission.

CELLAR — The portion of a building which is partly or completely below grade, and having more than 1/2 of its height below grade (see "basement").

CELLULAR COMMUNICATIONS — A commercial or noncommercial low-power mobile radio service licensed by the Federal Communications Commission (FCC) to two providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area. **[Amended 12-11-2014 by Ord. No. 2014-02]**

CEMETERY — Land used or intended to be used for the burial of the deceased, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with the cemetery and within its boundaries.

CENTRAL SEWER OR WATER — A sewage disposal network and facilities, or water supply network serving a group or series of property owners in coming; may be publicly or privately owned.

CHILD — For the purposes of child day care, a child is a person under 16 years of age.

CHILD DAY-CARE FACILITY — Any dwelling, building or portion thereof in which child day care services are provided, including any onsite outdoor play area. Child day care facilities shall be further differentiated by the following three classifications:

A. ~~DAY CARE FACILITY~~ — A facility and associated outdoor play areas in which out-of-home care is provided for part of a twenty-four-hour day for seven or more children under the age of 15 or any number of persons over the age of 15. A facility which is licensed to provide care for seven or more children at any one time, where the child care areas are not being used as a family residence.

B.A. ~~FAMILY DAY-CHILD CARE HOME~~ — As defined by 55 Pa. Code § 3290, Family Child Care Homes are "facilities in which out-of-home care is provided, at any one time, for part of a twenty-four-hour day to four, five or six children who are not related to the operator and who are 15 years of age or younger." Any premises or dwelling unit other than the child's own home where the child care areas are being used as a family residence, operated for profit or not for profit, in which child day care is provided at any one time on a regular basis to four, five or six children, who are not relatives of the caregiver. Day care service for children in this type of a facility is different from "babysitting."

~~C.B.~~ GROUP DAY CARE HOME — A facility in which care is provided for more than six but less than 12 children, at any one time, where the child care areas are being used as a family residence.

CHURCH — See "place of worship."

CLOSED CUP FLASH POINT — The temperature at which a liquid sample produces sufficient vapor to flash, but not ignite, when in contact with a flame in a closed cup tester.

CLUB — A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and/or bylaws.

CLUSTER DEVELOPMENT — An alternative development method wherein structures are arranged in closely related groups, reducing lot sizes, preserving land for open space and permitting more imaginative site design than may be possible under standard development.

~~COMMERCIAL SOLAR ENERGY SYSTEM — An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Commercial solar energy systems consist of one or more freestanding ground-, or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. [Added 7-18-2019 by Ord. No. 2019-01]~~

COMMON FACILITIES — All the real property and improvements set aside for the common use and enjoyment of the residents including, but not limited to, buildings, open land, private roads, parking areas, walkways, recreation areas, landscaped areas, drainage easements and any utilities that service more than one unit, such as sewer and water facilities.

COMPREHENSIVE PLAN — The Upper Frederick Township Comprehensive Plan and amendments thereto, including maps, charts and/or descriptive matter officially adopted by the Township Planning Commission and Board of Supervisors, intended to express Township policies that guide future development of the Township and including all elements required by the Pennsylvania Municipalities Planning Code.

CONDITIONAL USE — A form of permitted use, authorized by this chapter, under the jurisdiction of the Board of Supervisors. The Board of Supervisors is empowered to grant permission for conditional uses, consistent with the public interest, in compliance with the standards and procedures established in this chapter, following thorough examination of the proposal, and under any reasonable safeguards necessary to implement the purposes and intent of this chapter and to protect the general welfare.

CONDOMINIUM — Real estate, portions of which are designated for separate ownership and the remainder of which is designed for common ownership solely by the owner of those portions created under either the Pennsylvania Unit Property Act of July 3, 1963, or the Pennsylvania Uniform Condominium Act.

CONDOMINIUM ASSOCIATION — A community association combining individual homeownership with shared use or ownership of common property and facilities organized in accordance with the Pennsylvania Uniform Condominium Act, 68 P.S. § 3101 et seq. The homeowner owns the interior of the individual residence while the exterior is owned "in common" with the other owners. The homeowner owns an individual interest in the common facilities in addition to his residence. The association is responsible for maintaining the property and delivering common services, but does not own the common property. Condominium is a legal form of ownership, not a specific building type.

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

CONTIGUOUS — Sharing a boundary.

CONTRACTOR'S OFFICE/STORAGE -- A facility, building, lot, parcel, use, or group of facilities,

buildings, and uses including offices, workshops, and/or storage of materials for services rendered in the building trades, including carpentry, electric, furniture-making, heating and cooling, painting, plumbing, roofing, landscaping, and the like.

CONVERSION — The remodeling or alteration of a structure so as to accommodate more leasable or saleable units or a different use than what had originally been intended for the structure. Includes the alteration of a nonresidential structure into a dwelling unit(s) for at least one family, the modification of a single-family structure to accommodate more units than originally intended, the alteration of existing dwellings into a commercial use, and the alteration of an existing dwelling into a mixed commercial and residential use.

CORNER LOT — A lot having contiguous frontage on two or more intersecting roads.

COUNTY — The County of Montgomery, Commonwealth of Pennsylvania.

CULVERT — A drain, ditch or conduit not incorporated in a closed system, that carries drainage water under a driveway, roadway or paved area.

CURATIVE AMENDMENT — An amendment, submitted either by a citizen or by the Township, to be considered by the Board of Supervisors as a potential cure for a successful challenge to the substantive validity of a land use ordinance.

DAY CARE — See "child care facility."

DECIBEL (dB) — A unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

DEED — A written instrument whereby an estate in real property is conveyed by a grantor to a grantee.

DEED RESTRICTION — A restriction upon the use of a property placed in a deed.

DENSITY — The number of dwelling units per developable acre of land.

DEPARTMENT OF HEALTH — The Department of Health of the Commonwealth of Pennsylvania (the "DOH").**[Added 8-10-2017 by Ord. No. 2017-01]**

DETENTION BASIN or POND — A facility for the temporary storage of stormwater runoff.

DETONABLE MATERIALS — Materials which decompose by detonation. Such materials include explosives, unstable compounds and fissionable matter.

DETONATION — A rapid build-up of a destructive pressure wave caused by chemical reaction and/or the sudden release of energy.

DEVELOPABLE — Acreage available for development after subtracting legal and ultimate rights-of-way of existing roads, floodplains, wetlands, ponds, lakes, utility company easements and rights-of-way, riparian conservation corridor and slopes of 15% or more from the gross area of a tract or lot; applies to developable acre, acres, tract, tract area and tract acreage.**[Amended 9-10-2009 by Ord. No. 2009-07]**

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

DEVELOPMENT PLAN — The provisions for guiding development, including a plan of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, street, parking facilities, ways, common open space and public facilities.

DEVELOPMENT RIGHTS — The rights of the owner of a parcel of land, under land development regulations, to configure that parcel and the structures thereon to a particular density for residential uses.**[Added 5-12-2011 by Ord. No. 2011-02]**

DISABLED — A person having a physical or mental condition which prevents one from doing any substantial gainful work when that condition is expected to last (or has lasted) at least 12 months or is

expected to result in death.

DISPENSARY — A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the DOH under the Act¹ to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Act.**[Added 8-10-2017 by Ord. No. 2017-01]**

DISPENSARY FACILITY — Any building or structure used to dispense medical marijuana by a licensed dispensary.**[Added 8-10-2017 by Ord. No. 2017-01]**

DRAINAGE — The natural or man-made features of land that are specifically designed to store or carry surface water runoff.

~~**DRIVE-IN USE** — An establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.~~

DRIVEWAY — A private cartway providing vehicular access between a public street and a lot, property or development.

DWELLING TYPES — For the purposes of this chapter, the following are the definitions of the various types of dwelling units.

A. ~~**ACCESSORY DWELLING UNIT** -- A permanent dwelling unit that is accessory to a single-family dwelling that is located on the same lot. An Accessory Dwelling Unit may be internal to the principal dwelling or within a detached accessory building.~~

~~A.B. **APARTMENT** — A single dwelling unit in a multifamily building; a single dwelling unit in a duplex may also be referred to as an apartment.~~

~~B.C. **LOT LINE HOUSE** — A single-family detached dwelling on an individual lot, with the building set on one side property line, so that the lot has only one side yard. Lot line homes should be designed so that this side yard and the rear yard constitute the primary outdoor living areas for the dwelling. Typically, no windows are placed on the building wall that is on the lot line. A five-foot access easement is provided on the adjacent property along the lot line, for necessary maintenance of the building wall located on the lot line. Also known as zero lot line.~~

~~C.D. **MULTIFAMILY BUILDING** — A detached residential building containing three or more dwelling units with not more than six dwelling units located at ground level. Units may not be arranged entirely in horizontal rows (like townhouses), and are generally locate entirely above or below one another. Units may share outside access and/or internal hallways, lobbies and similar facilities. The dwelling units cannot be individually lotted, but instead share the lot or tract on which the building containing them is located. The development is usually under one operating unit, as rental or condominium development. This dwelling type includes garden apartments, flats and multifamily conversions.~~

~~D.E. **SINGLE-FAMILY ATTACHED DWELLING UNIT** — A dwelling unit having its own independent outside access, with no other dwelling units located directly and totally above or below it, and having party walls in common with at least one but not more than three adjacent similar dwelling units, and located in a building comprised of at least three dwelling units. This dwelling type shall include, but not be limited to, dwelling units commonly known as townhouses, rowhouses, triplexes, quadruplexes and multiplexes.~~

~~(1) **MULTIPLEX** — An attached dwelling arranged in a group of no more than six units, in a variety of configurations: side by side; back to back; or vertically. Because of the variety of configurations, a multiplex can be designed to look like a large, single family detached house, a feature which is encouraged by this chapter.~~

~~(2) **TOWNHOUSE (ROWHOUSE)** — A single family attached dwelling in a row of at least three units, with each dwelling unit occupying the area from ground to roof, with~~

~~individual outside access.~~

E.F. SINGLE-FAMILY DETACHED DWELLING UNIT — A building designed for and occupied exclusively as a residence for only one family and not attached to any other building or dwelling units.

F.G. TWO FAMILY BUILDING — A residential building containing two dwelling units and which is not attached to any other building. A two family building counts as two dwelling units for density purposes.

(1) DUPLEX (TWO FAMILY DETACHED) — ~~A building having two separate dwelling units, one over the other and/or side-by-side, where both dwelling units are located on a single parcel under common. A two-family building with one dwelling unit placed above the other so that they share a common horizontal partition. When lotted, a duplex shall be entirely on one lot. Separate ingress and egress is provided to each unit.~~

(2) TWIN (SINGLE-FAMILY SEMIDETACHED) — ~~A dwelling unit designed and used exclusively as the residence for only one family, that is the only dwelling unit located on the parcel it is situated on, and that is attached to one other such dwelling unit along a shared party wall that acts as a lot line separating the two dwelling units and parcels of land.~~

~~(2) A two-family building with dwelling units placed side-by-side, and joined to each other by a vertical common party wall, but otherwise surrounded by yard areas. When lotted, each dwelling unit may be on a separate lot, with the common boundary between the two lots running along the common party wall. Separate ingress and egress is provide to each unit.~~

G.H. VILLAGE HOUSE — A single-family detached house on an individual lot, differing from other forms of single-family detached housing in its lot size and placement on the lot. The front yard is narrow, but is distinguished by planting or architectural treatments. Each village house must meet two or more of the following criteria:

- (1) An unenclosed porch, at least seven feet wide, running across at least 3/4 of the house front.
- (2) A front yard raised above sidewalk grade by at least 30 inches with a retaining wall of at least 18 inches at the sidewalk line.
- (3) A fence of at least 30 inches and no more than four feet in height, enclosing the front yard, plus one flowering shrub per 60 inches across the width of the house front.
- (4) Two canopy trees per lot, or three flowering trees per lot, located within the front yard.
- (5) Intensive planting of one canopy tree, one flowering tree, plus one flowering shrub per 30 inches across the width of the house front.
- (6) A hedge of shrubs planted 18 inches apart across the width of the front yard, limited to a mature height of four feet.

H.I. ELDER COTTAGE — A small manufactured or modular, freestanding housing unit specifically designed for elderly, disabled or handicapped persons; ~~that - This unit is designed to be temporary in nature and transportable; and that may be installed on the same lot as an existing single-family detached dwelling unit as an accessory use to be transported and moved and to be installed on the same lot as an existing single family detached dwelling unit.~~ [Added 6-13-2013 by Ord. No. 2013-02]

DWELLING UNIT — One or more rooms, designed, occupied or intended to be occupied as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

EASEMENT — A vested or acquired right to use land other than as a tenant, for a specific purpose, such

right being held by someone other than the owner who hold title to the land. No structure shall be erected within an easement to impede access.²

ELDERLY — A person 62 years of age and over, or a couple where one of them is 62 years of age or over.

ELEVATION — A vertical distance above or below a fixed reference level; and a flat scale drawing of the front, rear or side of a building.

EMERGENCY SERVICES -- A facility, building, lot, parcel, use, or group of facilities, buildings, and uses that provides for ambulance, fire, police, rescue, and other emergency services of a municipal or volunteer nature.

ESTATE LOT — A large, privately-owned lot comprising all or part of an area of open land under the open land standards of the R-80 Land Preservation District. The purpose of the estate lot is to provide surrounding residents with visual access to open land, while keeping the land under private ownership and maintenance. Only a small portion of the estate lot may be developed; the remainder may be farmed or left in its natural state. Public access to estate lots is not required.

EXPLOSIVE MATERIAL — A material which produces flammable or explosive gases or vapors under ordinary temperature conditions, and includes liquids which have a closed cup flash point of less than 105° F.

FAMILY — Any number of individuals living together on a nontransient basis as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption, including any number of foster children; no more than five unrelated individuals living together as a single housekeeping unit and doing their cooking on the premises, except when an application for a special exception to enable a greater number of unrelated individuals to occupy a dwelling unit is reviewed and approved by the Zoning Hearing Board, as provided herein. Notwithstanding the definition as before, a family shall also be deemed to include mentally or physically handicapped persons occupying a dwelling unit as a single, nonprofit housekeeping unit if such occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the "Fair Housing Act of 1988." Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the part of this definition.

FAMILY ~~DAY-CHILD~~ CARE HOME — See "child day care facility."

FARM OPERATION — A premises of at least five acres which is used for the production of agricultural commodities in their unmanufactured state, such as raising livestock and which shall include those activities which are customarily associated with such production, including the application of manure and/or fertilizers for crop production.

~~FAST FOOD RESTAURANT — An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off the premises.~~

FLAMMABLE — Subject to easy ignition and rapid flaming combustion.

FLOODPLAIN-RELATED TERMS —

I.J. The following terms are defined for the purposes of Article XVI, FPC Floodplain Conservation District: **[Amended 2-11-2016 by Ord. No. 2016-03]**

- (1) BASE FLOOD — A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").
- (2) FEMA — The Federal Emergency Management Agency which has jurisdiction over the National Flood Insurance Program and its related studies and regulations.
- (3) FLOODPLAIN AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the usual and rapid accumulation of surface waters from any source.

J.K. All other floodplain-related terms shall be as defined in Chapter 140, entitled "Floodplain Management," and are incorporated herein by reference.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of the exterior walls, or from the center line of a wall separating two buildings, but not including interior vehicular parking or loading, or any space where the floor-to-ceiling height is less than six feet.

FLOOR AREA, NET — The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking and loading, and all floor area below the first or ground floor except when used or intended to be used for human habitation or service to the public. The area excluded as unusable may not exceed 15%.

FRONTAGE — The length of the lot line abutting a street right-of-way.

GROSS LEASABLE AREA — The total floor area designed for owner or tenant occupancy and exclusive use, including basements, mezzanines and upper floors, expressed in square feet and measured from the center line of partitions and from outside wall faces; not including public or common areas, such as public toilets, corridors, stairwells, elevator lobbies or enclosed mall spaces.

GROUP DAY CARE HOME — See "child care facility."

GROUP HOME — A residential facility used as living quarters by any number of unrelated persons requiring special care, and their attendant adult supervisors, specifically designed to create a residential setting for the following types of individuals: juvenile delinquents, the mental and physically impaired, and other similar uses as a special exception. The individuals may be either transient or permanent residents.

GROWER/PROCESSOR — A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the DOH under the Act³ to grow and process medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Act. **[Added 8-10-2017 by Ord. No. 2017-01]**

GROWER/PROCESSOR FACILITY — Any building or structure used to grow medical marijuana by a licensed grower/processor that has a current and valid license from the DOH pursuant to the Act.⁴ **[Added 8-10-2017 by Ord. No. 2017-01]**

GUEST ACCOMMODATIONS — See "bed-and-breakfast," "hotel," "motel."

HANDICAPPED — Anyone with a physical or mental disability that substantially impairs or restricts one or more of such major life activities such as walking, seeing, hearing, speaking, working or learning.

HEALTH CARE FACILITY — A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including a general hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, chronic disease hospital, maternity hospital, birth center dispensary, home health care agency, personal care boarding home. All care for which a state license is required shall be provided by properly licensed personnel, including nurse practitioners. (Also see "institutional uses.")

HEALTH SERVICES — Establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other licensed health practitioners, medical and dental laboratories, out-patient care facilities, blood banks and oxygen and miscellaneous types of medical supplies and services.

HEIGHT OF BUILDING — The vertical distance measured from the average elevation of the existing grade at the location of the building to the highest point of a flat or multilevel roof or, for gable hip or gambrel roofs, to mean height between the eaves and ridge. Residential chimneys, mechanical penthouses and similar projections not intended for human occupancy shall be excluded.

~~**HELIPORT, COMMERCIAL** — A landing area for helicopters which includes facilities for fueling, repair and storage of helicopters and which is licensed by the PADOT.~~

~~**HELIPORT, PERSONAL USE** — A heliport landing area (sometimes known as a helistop) licensed by~~

~~the Pennsylvania Department of Transportation (PA DOT) for the purpose of picking upon or discharging passengers or cargo. No fueling, helicopter repair or storage area(s) are permitted in conjunction with the operation of a personal use heliport.~~

HISTORIC EDUCATIONAL FACILITY — A facility operated on a not-for-profit basis by an organization or an individual for the purpose of providing an educational historic setting.

HISTORIC STRUCTURE — Any structure that is:

~~K.L.~~ Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

~~L.M.~~ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

~~M.N.~~ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

~~N.O.~~ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior.
- (2) Directly by the Secretary of the Interior in States without approved programs.

HOME OCCUPATION — The accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site, pursuant to the provisions of Article VII of this chapter. The use is incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part.

HOMEOWNERS' ASSOCIATION (HOA) — A community association combining individual homeownership with shared use or ownership of common property and facilities. The homeowner owns the lot, including the interior and exterior of the individual home, while the association owns and maintains the common facilities.

~~**HOTEL** — An establishment provided transient accommodations, containing five or more rental rooms or suites, where access to rooms is provided through a lobby and internal hallways and the building height is more than two stories. Meeting rooms, banquet facilities and ancillary commercial shops are often provided within the building, with internal hallway access.~~

IMPERVIOUS COVERAGE — A surface coverage that prevents the infiltration and/or percolation of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas or roofs. Any surface areas designed to be compacted gravel or crushed stone shall be regarded as impervious surface coverage. The percentage of impervious surface coverage is determined by dividing the square footage of impervious surface coverage by the net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**

IMPROVEMENTS — The physical additions, installation and changes required to render land suitable for the use proposed, including streets, curbs, sidewalks, utilities and drainage facilities.

INDUSTRY — Those fields of economic activity, including fishing, hunting and trapping, mining, construction, manufacturing, transportation, communication, utility services and wholesale trade. (See "industry, light" and "industry, heavy.")

INDUSTRY, LIGHT — Industrial activities which are carried out entirely within an enclosed building and involve no outdoor processes or outdoor storage of primary raw materials.

INDUSTRY, HEAVY — Industrial activities which do not meet the definition of "light, industry."

INSTITUTIONAL USES — Uses with specialized definitions including the following:

- A. **INTERMEDIATE CARE FACILITY** — A facility that provides nursing care and related medication or other personal health services on a regular basis to individuals who do not require a degree of care or treatment which a hospital or skilled nursing care facility is designed to provide, but who, because of their mental or physical disability, require hospital or skilled nursing services within the context of a planned program of care and administrative management, supervised on a continuous twenty-four-hour basis in an institutional setting. [Skilled nursing and personal care facility definitions are drawn from state legislation (House Bill No. 1278, effective December 22, 1988) regulating personal care facilities].
- B. **PERSONAL CARE FACILITY** — A premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, and who do not require the services of a skilled nursing or intermediate care facility, but who do require assistance or supervision in matters such as dressing, bathing, diet or medication prescribed for self-administration.
- C. **SKILLED NURSING CARE FACILITY or NURSING HOME** — A premises in which nursing care and related medical or other health services are provided, for a period exceeding 24 hours, for two or more individuals, who are not relatives of the operator, who are not acutely ill or in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or mental infirmity need such care.
- D. **CONTINUING CARE RETIREMENT COMMUNITY (CCRC)** — A development, licensed as required, which: **[Added 6-13-2013 by Ord. No. 2013-02]**
- (1) Is operated as an integrated unit on one or more adjacent parcels of land, under common ownership;
 - (2) Provides a range of housing, care and services to and for the elderly, handicapped and/or mentally ill, together with a variety of ancillary facilities intended to meet the social, recreational, cultural and religious needs of the residents; and
 - (3) Provides, as part of such care, three levels of health care, including independent living, assisted living (also referred to as a "personal care facility") and long-term and short-term skilled nursing care.
- E. **TRADITIONAL NEIGHBORHOOD DESIGN (TND) OPTION WITHIN A CONTINUING CARE RETIREMENT COMMUNITY (CCRC)** — A mix of diverse but compatible types of residential development provided as part of and only within a new or existing continuing care retirement community, whether proposed as part of the initial development of the continuing care retirement community or thereafter, and whether proposed on property which was part of such initial development or thereafter acquired for present or future use as part of such retirement community development. A particular traditional neighborhood design option within a continuing care retirement community may propose one or more dwelling types that will be added to existing or future proposed diverse but compatible housing in the continuing care retirement community. **[Added 6-13-2013 by Ord. No. 2013-02]**
- F. **INDEPENDENT LIVING FACILITY** — A residential facility which: (1) is designed and managed for adult residents who are elderly, handicapped and/or mentally ill, but who are independently mobile and not in need of supervision or the services of a skilled nursing home, personal care facility or intermediate care facility; and (2) provides self-sufficient residential

opportunities for the residents while, at the same time, providing access to limited nonmedical services needed to sustain the activities of daily living. Such a facility may include single-family detached, single-family attached, or two-family buildings, elder cottages, and multifamily or apartment dwellings. **[Added 6-13-2013 by Ord. No. 2013-02]**

INSTRUMENT OF TRANSFER — The document provided by the Township for the transfer of development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

INTEGRATED INDUSTRIAL PARK DEVELOPMENT — A collection of adjacent parcels containing at least 15 acres and at least three light industrial uses, planned and developed as an integrated unit within the industrial zoning district.

JUNK — Includes refuse, rubbish, scrap and debris, whether recyclable or not, and made from any or all material other than solid waste as defined herein. It shall not include refuse or garbage kept in proper containers for the purposes of prompt disposal or collection.

JUNKYARD — Any outdoor establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling junk, including junked motor vehicles and their parts.

KENNEL, ANIMAL — Any structure or premises in which more than four dogs or other domesticated small animals more than six months old are housed, groomed, bred, boarded, trained or sold.

LAND DEVELOPMENT — Any of the following activities:

- 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.
 - (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. Except that the following activities shall not be considered land development:
 - (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium.
 - (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

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

[LIBRARY, MUSEUM, OR COMMUNITY CENTER -- A facility, building, lot, parcel, use, or group of facilities, buildings, and uses that is open to the general public or a subset thereof \(e.g., senior citizens\) for educational, social or recreational programs and other community uses and owned and operated by a civic, educational, municipal, philanthropic, religious, or other tax-exempt entity.](#)

LOADING SPACE — A space, accessible from a street, in a building or on a lot, for the temporary use of vehicles while loading or unloading materials or merchandise.

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

LOT AREA, GROSS — Calculated land area contained within the deeded boundaries of a lot or tract.

LOT AREA, NET — Acreage available for development after subtracting, from gross lot area, areas of public and private rights-of-way, easements, ultimate rights-of-way, steep slopes (as defined in Article XV, Steep Slope Conservation District), riparian conservation corridor (as defined in Article XXIV, Riparian Conservation Corridor), floodplains (as defined in Article XVI, Floodplain Conservation District), existing watercourses, wetlands, ponds, lakes and access strips for flag lots. This definition shall be used to calculate net tract acreage, developable lot area. **[Amended 3-8-2007 by Ord. No. 2007-04; 9-10-2009 by Ord. No. 2009-07; 1-14-2010 by Ord. No. 2010-01]**

LOT, FLAG — A lot which conforms in all respects to the dimensional requirements of the zoning district in which it is located, except that the only road frontage and access is limited to an access strip. This definition does not include the commonly used wedge-shaped lots located on a cul-de-sac turnaround. Also known as a "rear lot" or "interior lot."

LOT LINE — Any property boundary line of a lot, further defined as follows:

- A. Front lot line is the line identical with the ultimate right-of-way line (also known as street line). For a flag lot, the front lot line shall be that boundary of the buildable part of the lot closest to and approximately parallel to the ultimate right-of-way line.
- B. Rear lot line is the line or lines most nearly parallel or concentric to the front lot line.
- C. Side lot lines are the lines most nearly perpendicular or radial to the front lot line. On a corner lot, the side lot line shall be the line or lines most nearly perpendicular or radial to the higher classification of street, where applicable. The remaining line shall be considered the rear lot line.
- D. A lot which fronts on more than one street shall have a front lot line on each street frontage.

LOT WIDTH — The horizontal distance between side lot lines, measured at the building line, parallel or concentric to the ultimate right-of-way line. For a corner lot, lot width shall be measured parallel or concentric to the ultimate right-of-way line of the higher classification of street, where applicable.

MANUFACTURED HOME — A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis which arrives at a site completed and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

MANUFACTURING, **Processing, and Production** A facility, building, lot, parcel, use, or group of facilities, buildings, and uses engaged in the manufacture or assembly of products, parts, or materials. The processing, fabrication, assembly, treatment, packaging, incidental storage, and distribution of such products is included under this use. — The process or operation of making wares or products from raw materials by hand or by the use of machine(s).

MEDICAL MARIJUANA ACT — Act 16 of 2016, 35 P.S. § 10231.101 et seq. (the "Act"). **[Added 8-10-2017 by Ord. No. 2017-01]**

MEDICAL MARIJUANA FACILITY — A dispensary facility or a grower/processor facility. **[Added 8-10-2017 by Ord. No. 2017-01]**

MINI-PARK — An area, ranging in size from 2,500 to 10,000 square feet, designed to meet passive or active recreational needs of the immediately surrounding community. **[Added 5-14-2015 by Ord. No. 2015-02]**

MINOR HOME-BASED BUSINESS -- A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which may involve no more than one employee and limited customer or client appointments on-site.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separate for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. May not meet local building codes but does meet the standards of the U.S. Department of Housing and Urban Development, as indicated by the Structural Engineering Bulletin(s) provided to the Board of Supervisors by the applicant.

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

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

MODULAR HOME — A single-family dwelling unit for permanent occupancy, made by assembling one or more factory-produced, three dimensional sections into one integral building, not capable of easily being separated for repeated towing, whose construction materials must conform to those of conventionally-built units, as required by the Township's building code (Chapter 112), and must be placed on a permanent foundation. A copy of the Structural Engineering Bulletin(s) must be provided to the Board of Supervisors, indicating approval of the dwelling or its occupants by the U.S. Department of Housing and Urban Development.

~~**MOTEL** — An establishment providing transient accommodations, containing more than five rental rooms or suites, where access to rooms is from directly outside the building. Building height is typically only one or two stories, and the facility is generally served by a central office rather than a lobby.~~

MOTOR VEHICLES SALES AGENCY — A commercial use for the sale and repair of motor vehicles, including new and used cars, trucks, recreational vehicles, and/or farm equipment; having both indoor and outdoor display areas and providing maintenance and repair services for vehicle owners.

MOTOR VEHICLES — All vehicles propelled or drawn by power other than muscular power and intended for use on public highways or in agricultural activities.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the date of this chapter, and includes any subsequent improvements thereto.

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

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling of inventory of a substantial nature.
- D. There shall be no outside appearance of the business use including, but not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

- F. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with the residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling, and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

NONCONFORMING LOT — A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, 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 a zoning ordinance or amendment heretofore or hereafter enacted, where such structure 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. Such nonconforming structures include nonconforming signs.

NONCONFORMING USE — A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment 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.

OFFICE, BUSINESS/PROFESSIONAL – A building or portion thereof in which services are performed by a member of a profession, including an accountant, architect, author, community planner, dentist, engineer, insurance agent, landscape architect, lawyer, notary, optometrist, physician, undertaker, real estate broker/appraiser, licensed health practitioner or ordained clergy.

OFFICE, MEDICAL -- An office which offers scheduled appointments or walk-in service for the examination, diagnosis and/or treatment of medical or dental concerns for outpatients. Such facilities may include a reception/waiting area, examination rooms, X-ray or other imaging facilities, employee break rooms, pharmacy facilities, or other facilities that are incidental to a medical office or clinic.

OCTAVE BAND — A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OPEN SPACE — Public or private land and/or water designated for the use and enjoyment of Township residents and/or the general public, incorporating natural features such as woodland, stream or meadows and including Township parks, trails and other recreational facilities. Also includes "common open space," as defined below, and other private lands which are available for the use of Township residents (i.e., through access easements). Also known as "open land."

OPEN SPACE, COMMON — A parcel or parcels of land within a development site designed and intended for the use or enjoyment of the residents of the development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such recreational facilities for residents as are shown in the approved development plan.

PARK — Any area which is predominately open space, is used principally for active or passive recreation, and is not used for a profit-making purpose.

PARKING FACILITIES — Outdoor areas or specially designed buildings or garages used for the storage of vehicles.

PARKING SPACE — A reasonably level area outside a street right-of-way, available for the parking of one motor vehicle and consisting of an all-weather surface, either covered garage space or uncovered parking lot space, which has access from a street, alley or driveway, exclusive of passageways, driveways or other means of circulation or access. **[Amended 1-14-2010 by Ord. No. 2010-01]**

PARTICULATE MATTER — Material other than water which is suspended in or discharged into the atmosphere in a finely divided form, as a liquid or solid.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — The Municipalities Planning Code, originally enacted as Act 247 of 1968, which establishes the basic authority for the exercise of municipal land use controls in Pennsylvania. All subsequent amendments are included. Abbreviated as "MPC" or "Act 247."

PERMIT — A document issued by the proper authority authorizing the applicant to undertake specified activities.

- A. BUILDING PERMIT — A permit indicating that a proposed construction, alteration or reconstruction of a structure is in accordance with construction provisions of the Building Code (see Chapter 112, Article II), and which authorizes an applicant to commence with said construction, alteration or reconstruction.
- B. USE AND OCCUPANCY PERMIT — Generally, a permit issued upon completion of the construction of any structure, indicating that the premises comply with the provisions of this chapter; or issued in approval of a reoccupancy, a new use, or a change in use of buildings or land, indicating compliance with this chapter. Informally known as a "zoning permit."

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

PERSONAL SERVICES — A business which provides a service oriented to personal needs, and not primarily involving retail sales of goods or professional advisory services. Includes barber, beauty salon, bakery, tailor, dressmaker, shoe repair, photographer, travel agent, jewelry and watch repair or similar service uses.

PLACE OF WORSHIP — A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as administrative facilities, cemeteries, education or daycare facilities or dwelling(s) located on the same lot. A building or buildings designed and constructed primarily for organized religious services and accessory uses associated therewith. Includes church, chapel, synagogue, temple and other forms of terminology.

PLAN — A graphic representation of a proposal for subdivision and/or land development, including necessary written notes.

PLANNING COMMISSION — The Upper Frederick Township Planning Commission.

PLANT NURSERY AND/OR GREENHOUSE -- The raising and/or retail sales (including wholesale) of trees, shrubs, grasses, annual and perennial flowers, houseplants, seeds, soil, mulch, hand tools, insecticides, fertilizers, and other horticulturally related items.

PRINCIPAL BUILDING — A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE — The single dominant use or single main use on a lot.

PROFESSIONAL OFFICE — A building in which services are performed by a member of a profession, including an accountant, architect, author, community planner, dentist, engineer, insurance agent, landscape architect, lawyer, notary, optometrist, physician, undertaker, real estate broker/appraiser, licensed health practitioner or ordained clergy. See "office, business/professional."

PROPERTY LINE — A recorded boundary of a lot. Any property line which abuts a street or other public way shall be measured from the right-of-way.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the Board of Supervisors, Planning Commission or other Township agency, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code, as amended.

PUBLIC MEETING — A forum held pursuant to notice under the act of July 3, 1986, (P.L. 388, No. 84), known as the "Sunshine Act." (. . . any prearranged gathering of an agency which is attended or participated in by a quorum of the members of an agency, held for the purpose of deliberating agency business or taking

PUBLIC NOTICE — Notice published once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and 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.

RECEIVING DISTRICT — One or more districts in which the development rights of parcels in the sending district may be used. **[Added 5-12-2011 by Ord. No. 2011-02]**

RECEIVING PARCEL — A parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density, and/or intensity, or an otherwise nonpermitted use, is allowed by reason of the transfer of development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

RECREATION AREAS — The following definitions apply to recreation areas and facilities as governed by this chapter:

- A. **ACTIVE RECREATION AREAS** — Generally includes areas used for group or team activities, especially those involving sports or playground equipment, and generating significant movement and/or noise from participation. May include hiking, biking and fitness trails.
- B. **PASSIVE RECREATION AREAS** — Generally includes areas for quiet, individual or small group activity ranging from sitting areas through hiking/biking trails and may include a variety of activities such as fishing, birdwatching, picnicking and sunbathing.
- C. **PLAYFIELD** — A neighborhood or park play area for informal active recreation purposes such as ball games and other activities requiring a large lawn area, away from homes or other buildings to reduce potential for conflicts between active recreation and residential use.
- D. **PLAYGROUND** — A confined, developed, neighborhood or park play area primarily for use by school-age children with or without supervision and equipped with a variety of traditional and/or nontraditional play equipment, permanently affixed to the land.
- E. **TOT LOT** — A confined, developed, neighborhood or park play area primarily for use by preschool children under the supervision of parents or guardian.

RECREATION AND ENTERTAINMENT, INDOOR -- A building or portion thereof providing private or public walk-in or regularly scheduled recreation-oriented activities in an indoor setting. Examples of such facilities include, but are not limited to, arcade, billiard hall, bowling alley, health club, and skating rink.

RECREATION AND ENTERTAINMENT, OUTDOOR -- Land or facilities providing daily or regularly scheduled recreation-oriented activities for paying customers in an outdoor setting. Examples of such facilities include, but are not limited to, miniature golf courses, golf courses or driving ranges, sports or athletic fields and stadiums.

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis.
- B. Not more than 400 square feet, measured at the largest horizontal projections.
- C. Designed to be self-propelled or permanently towable by a light-duty truck.
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RELATIVE — A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, stepbrother, stepsister, first cousin, aunt, uncle, niece or nephew.

RESEARCH AND DEVELOPMENT -- A building or portion thereof wherein the conducting of scientific or medical research, investigation, experimentation or testing takes place. Such facilities shall not include the manufacture, production, or sale of products.

RESIDENTIAL DENSITY LIMIT — The maximum permitted ratio of dwelling units to land area in a particular zoning district.

RESTAURANT -- A building or portion thereof where food and beverages are sold for direct consumption on the premises or for take-out/carry-out service where such goods are consumed off-site. Such facilities may provide service to seated customers at a table or counter, and may include outdoor dining areas. A restaurant does not include establishments where food service is subordinate or incidental to the consumption of alcoholic beverages, entertainment, the rendering of services, or the sale of merchandise.

RETAIL -- A building or portion thereof involved in the sale, lease, or rental of new or used products, not including vehicle sales or rentals.

REVERSE FRONTAGE LOTTING — Lotting which extend between two streets of differing classifications, with vehicular access provided from the lesser street, in order to promote traffic flow and safety on the greater street.

SALVAGE — See "waste."

SANITARY SEWER SYSTEM — A centralized sanitary sewer system or a comparable common or package sanitary sewer facility approved by the appropriate governmental health agency.

SATELLITE DISH ANTENNA — A device incorporating a reflective surface that is solid, open mesh or bar-configures and is in the shape of a shallow dish, conical, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is mean to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only) and microwave antennas.

SATELLITE USE — A commercial establishment in a shopping center, located in a freestanding building independent of other buildings and frequently near the road frontage of the center. Satellite uses are generally characterized by a need for nearby parking, rapid customer turnover and vehicular service bays or drive-through services.

SENDING DISTRICT — One or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts. **[Added 5-12-2011 by Ord. No. 2011-02]**

SENDING PARCEL — A parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

SERVICE OR PERSONAL CARE ESTABLISHMENT -- A building or portion thereof engaged in providing service involving the care of a person or personal items. A personal care business requires direct, physical contact with the customer in the performance of a personal service. Examples of such use includes barbershops, beauty salons (including beauticians, nail manicurists, and estheticians), tanning salons, alternative therapy establishments, massage therapy establishments, and shops offering the services of tailors or seamstresses. When such use requires a license from the Commonwealth Department of Professional Occupations, proof of licensure shall be provided to the Township.

SEWAGE FACILITIES, CENTRAL — A sewage disposal system in compliance with all state and local regulations, approved by the Pennsylvania Department of Environmental Protection, an applicable sewer authority and providing service to multiple customers. Includes "public sewer facilities and common sewage facilities."

SEWAGE FACILITIES, COMMON — A sewage disposal system independent of the public sewer

system, serving more than one residence or business through a community treatment plant, land application system or similar "satellite" system.

SEWER FACILITIES, PUBLIC — The central sewage system operated by a municipal authority.

~~SHOPPING CENTER — A group of commercial establishments, planned and developed as an integrated architectural and functional unit, providing convenient onsite parking and controlled, common vehicular and pedestrian access.~~

SIGN — Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Sign types and sign-related terms are further defined in Article XX, herein.

SINGLE AND SEPARATE OWNERSHIP — The ownership of a contiguous land area as one or more lots by one owner, whether a person, partnership, corporation or other legal entity, irrespective of the fact that parts of the land may have been acquired at different times or that the area may have been divided into parts on any plan or plat.

SOIL SURVEY — The Montgomery County Soil Survey of 1967, prepared by the Soil Conservation Service of the United States Department of Agriculture, as amended.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED -- A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity.

SOLAR ENERGY SYSTEM, ROOF-MOUNTED -- A solar energy system located on the roof of any legally permitted building or structure that produces electricity.

SPECIAL EXCEPTION — A form of permitted use, authorized by this chapter, under the jurisdiction of the Zoning Hearing Board. The Zoning Hearing Board is empowered to grant permission for special exceptions, consistent with the public interest, in compliance with standards and procedures established in this chapter.

~~SPECIALIZED RETAIL — Retail shops and stores selling gifts, novelties, flowers, books, periodicals, jewelry, apparel, tobacco, toys, crafts, hobby supplies, cameras and film, stationary and antiques stores. Stores in excess of 7,500 square feet in a single structure are not included in this use. Adult uses are excluded.~~

STEEP SLOPE — A grade of 15% or greater as determined by the soil survey or accurate contour mapping. Fifteen percent is a change in elevation of 15 feet within 100 feet of horizontal distance, or the equivalent rate of change within a shorter or longer distance.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and ceiling next above it and including those basements used for the principle use.

STREAM, PERENNIAL — A stream with a defined channel carrying water at least 90% of the time. The known perennial streams in the Township are identified on the Upper Frederick Township Riparian Corridor Conservation Map.**[Added 9-10-2009 by Ord. No. 2009-07]**

STREAM, INTERMITTENT — A stream which carries water only a portion of the year and which may cease to flow occasionally or seasonally because bed seepage and/or evapotranspiration exceed the water supply. Those intermittent streams with an upstream drainage area of 75 acres or more, measured from where the stream exits the subject property, shall also be subject to the requirements of the Riparian Corridor Conservation District.**[Added 9-10-2009 by Ord. No. 2009-07]**

STREET — A public or private right-of-way serving primarily as a means of vehicular and pedestrian travel, furnishing access to abutting properties, and which may also be used for utilities, shade trees and stormwater control. Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STREET LINE — A line identical with the ultimate right-of-way line.

STREET RIGHTS-OF-WAY — Rights-of-way for street purpose are defined as follows:

- A. EQUIVALENT RIGHT-OF-WAY — A street right-of-way required to be reserved where private streets function, in accordance with the street classifications contained in Chapter 240, Subdivision and Land Development.
- B. LEGAL RIGHT-OF-WAY — The street right-of-way legally in the public domain at the time a plan is submitted.
- C. ULTIMATE RIGHT-OF-WAY — The street right-of-way projected as necessary for adequate handling of anticipated maximum traffic volumes.

STRUCTURE — Any man-made object having an ascertainable, stationary location on or in land or water, whether or not affixed to the land. For floodplain management purposes, a structure means anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes and other similar items.

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 division of land, including changes in existing lot line 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.

- A. CONVENTIONAL LOTTING, SUBDIVISION or DEVELOPMENT — Conventional lotting spreads similar-sized, minimum dimension building lots rather uniformly across an entire tract, provides no open space or recreation areas, and includes wetlands, floodplains and/or steep slopes in yard areas. The maximum number of lots is determined by "fitting-in" as many lots as can be done in compliance with the dimensional standards of the zoning district.
 - (1) Piecemeal subdivision is a form of conventional lotting where only one or a few building lots at a time are subdivided off from a large tract without an overall plan.
 - (2) Conventional lotting may also be done to create a few "oversized" lots rather than many minimum sized rates.
- B. FLEXIBLE LOTTING, SUBDIVISION or DEVELOPMENT — Flexible lotting predetermines the maximum number of building lots, then permits their creation at standards that allow design flexibility, facilitate preservation of natural features, provide visual variety and areas for recreation and permit clearly defined neighborhoods in a subdivision.
 - (1) Clustering is a form of flexible lotting that requires common open space areas.
 - (2) Lot averaging is a form of flexible lotting that permits preservation of open space on privately owned lots, some of which may be significantly larger than the minimum dimensional standards require.

SUBSTANTIAL CONSTRUCTION — Construction on an approved project is recognized as having begun when foundation footings are poured or other structural supports are installed and such footings or supports have passed any required inspection.

SUPERVISORS — The duly-elected governing body of Upper Frederick Township. Also known as the Board of Supervisors.

SWIMMING POOL — A body of water or receptacle for water having a depth at any point greater than 30 inches which is primarily used or intended to be used for swimming or bathing.

~~TATTOO PARLOR (INCLUDES BODY PIERCING STUDIO) — An establishment whose principal~~

~~business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: [Added 3-8-2007 by Ord. No. 2007-04]~~

- ~~A.—Placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; or~~
- ~~B.—Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.~~

TDR CERTIFICATE — The Township's documentation of the number of development rights that can be severed from a specific property in the sending area. [Added 5-12-2011 by Ord. No. 2011-02]

TELECOMMUNICATIONS — The science or technology of communications by electronic transmission of impulses as by telegraph, cable, telephone, radio, television, microwave, earth station broadcast/cable television communications and other similar technology not otherwise enumerated and as may evolve after enactment of this article.

TEMPORARY OR SEASONAL OCCUPANCY — The use of any premises or structure for living and/or sleeping purposes for less than 100 consecutive days in any calendar year.

TOWNSHIP DESIGNEE — An employee or consultant of the Township designated by the Township to represent the Township's interests. A designee may include the Township Engineer, Township Planner, Township Zoning Officer and the Township Solicitor. [Added 5-12-2011 by Ord. No. 2011-02]

TRANSFER OF DEVELOPMENT RIGHTS — The procedure prescribed by this chapter whereby the owner of a parcel in the sending district may convey development rights to the owner of a parcel in the receiving district or other person or entity, whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel or may be held by the receiving person or entity. [Added 5-12-2011 by Ord. No. 2011-02]

ULTIMATE DEVELOPMENT PLAN — A plan required under the neighborhood lotting requirements found in the R-80 Land Preservation District, showing the design of all roads, neighborhoods, lots and open space areas as the applicant intends them to be when the tract is ultimately developed to provide the maximum permitted number of lots.

ULTIMATE RIGHT-OF-WAY LINE — The dividing line between a lot and the outside limit of the ultimate right-of-way of a public street. Identical with street line. See "traffic-related" definitions in § 285-74 of this chapter.

UTILITY FACILITIES — Above ground structures or facilities (other than buildings, unless such buildings are used for storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation or any entity defined as a public utility for any purpose by the Pennsylvania Public Utilities Commission and used in connection the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or communication signals. Excepted are utility transmission lines and supporting structures.

VARIANCE — The granting of permission by the Zoning Hearing Board to use or alter land or structures which requires a variation from the strict application of a requirements of this chapter. Variances are granted only if specific requirements are met, in accordance with the provisions of this chapter.

VEGETATIVE COVER — The land area devoted to vegetative coverage, including lawns, trees, shrubs, flowers and gardens.

VEHICLE DISPLAY AREA — An open area, other than a street or parking area, used for display, sale or rental of new or used motor vehicles, recreational vehicles or boats in operable condition, and where no major repairs are done.

VIEWSHED — A geographical area that is visible from one or more viewing points that is considered valuable or worth preserving for aesthetic reasons, including all surrounding points that are within the line

of sight of the viewing point. **[Added 5-14-2015 by Ord. No. 2015-02]**

VISUAL SCREEN — A barrier whose purpose is to obscure a view; generally comprised of plant materials suitable for the purpose.

~~**WAREHOUSE, MINI** — A building or group of buildings situated in a controlled access compound which are divided into individual separate access units which are rented or leased for the storage of tangible personal property.~~

WAREHOUSE — A facility, building, lot, parcel, use, or group of facilities, buildings, and uses engaged in primarily used for the commercial storage, wholesale, and/or ~~transfer and~~ distribution of manufactured equipment, goods, materials, products and or supplies materials.

WASTE — See Article XXI, Solid Waste Disposal and Recycling, for the definition of "waste" and other waste-related terms.

WATER SUPPLY SYSTEM — A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the local authorities. Includes public water facilities and common water facilities.

WATERCOURSE — A place intended or used for the directed surface flow of water, including permanent and intermittent streams, brooks, creeks, channels, ditches, swales and rivers.

WETLANDS — Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. Wetlands are considered a body of water, which are included in the definition of regulated waters of the Commonwealth. **[Amended 9-10-2009 by Ord. No. 2009-07]**

WHOLESALE BUSINESS — 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.

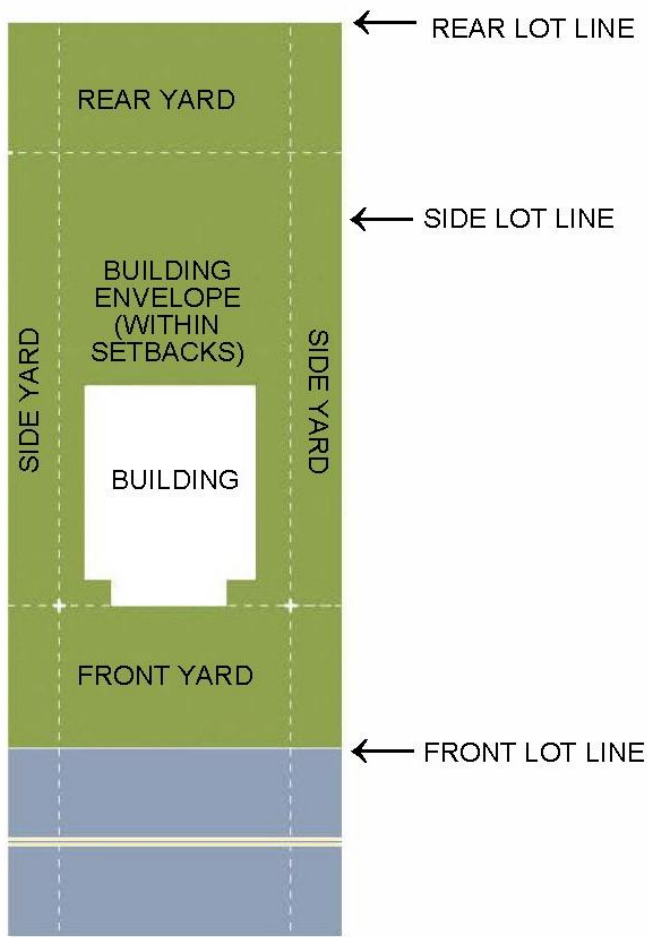
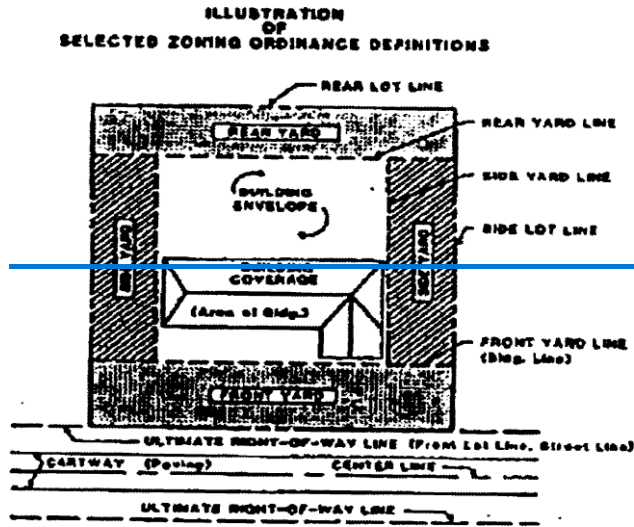
WOODLANDS — Areas, groves or stands of mature or largely mature trees (i.e., larger than six inches in caliper) covering an area greater than 1/4 of an acre, or groves of mature trees (greater than 12 inches in caliper) consisting of more than 10 individual specimens.

YARD — The area(s) of a lot which must remain free of buildings or other structures, and may be used as lawn or planted area, parking or driveway space, in compliance with the provisions of this chapter. A yard is measured at right angles from the right-of-way or lot line to the nearest building wall. Architectural elements such as cornices, entrance hoods, overhangs or eaves may extend no more than three feet into the required yard area. Yard is further defined as follows:

- A. **FRONT YARD** — A yard which extends across the full width of a lot, for a depth equal to the minimum front yard setback distance required by the specific regulations of this chapter, measured from the ultimate right-of-way line.
- B. **REAR YARD** — A yard which extends across the full width of a lot, for a depth equal to the minimum rear yard setback distance required by the specific regulations of this chapter, measured from the rear lot line.
- C. **SIDE YARD** — A yard which extends along a side lot line from the required front yard to the required rear yard, the minimum width of which shall be the minimum specified by the regulations of this chapter, measured from the side lot line.

YARD LINE — A line which locates and delineates the minimum yard setback requirements, measured from the ultimate right-of-way, rear and side lot lines.

ZONING OFFICER — The administrative officer charged by the Board of Supervisors with the duty of enforcing the provisions of this chapter.



ARTICLE VI
Nonconforming Status

§ 285-42. Nonconforming status. [Amended 11-9-1995 by Ord. No. 95-8]

All buildings, structures, uses of land, uses of buildings, lots and signs that do not conform to all of the applicable regulations of the district in which they are located or other applicable requirements of this chapter shall be considered as nonconforming provided that:

- A. They lawfully existed on the date of passage of this chapter.
- B. They lawfully existed on the date of passage of a text or map amendment to this chapter, which amendment caused the nonconforming status.

§ 285-43. Nonconforming classifications. [Amended 11-9-1995 by Ord. No. 95-8]

- A. Nonconforming use. The existing lawful use of land and/or buildings and/or structures upon the land which does not conform to any of the permitted uses of the district in which it is located, and which has not been authorized by the issuance of a variance.
- B. Nonconforming building or structure. Any existing lawful building or structure that does not conform to the height, location, size, bulk or other dimensional requirements of the district in which it is located. This does not include signs.
- C. Nonconforming lot. Any existing lawful lot which does not conform to the area and/or width requirements for lots in the district in which it is located.
- D. Nonconforming signs. Any sign, billboard or advertising device lawfully existing at the time of the passing of this chapter that does not conform in use, location, height or size with the regulations of this chapter shall be considered a nonconforming sign and may continue in such use in its present location.
- E. Temporary nonconforming use. A temporary nonconforming use, which will benefit the public health or welfare or promote proper development of a district in conformity with the intent of this chapter, may be permitted for a period of not more than 90 days on the approval of an application for a special exception by the Zoning Hearing Board.

§ 285-44. Nonconforming regulations. [Amended 11-9-1995 by Ord. No. 95-8; 1-8-2004 by Ord. No. 04-01]

The following regulations shall govern all properties to which nonconforming status is applied:

- A. Nonconforming status may continue, and a property may continue to be used as nonconforming, until it complies with the requirements of this chapter.
- B. Change of use.
 - (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing nonconforming use, as a special exception by the Zoning Hearing Board.
 - (2) A nonconforming use shall not be changed to another nonconforming use of a lower (less

restrictive) land use classification.

- (3) If a nonconforming use is changed to a conforming use, then the previous nonconforming status shall become null and void in accordance with Subsection C, below.
- C. Discontinuance. A nonconforming use, when discontinued, may be resumed any time within one year from such discontinuance, but not thereafter. The resumption may be of the same class or use, but shall not be less appropriate or more detrimental than the previous nonconforming use.
- D. Extension or expansion. A nonconforming use, building or structure, not including signs, may be extended or expanded in compliance with the following:
- (1) The parcel on which extension or expansion occurs shall include only that lot, held in single and separate ownership, on which the use, building or structure existed at the time it became nonconforming. Expansion onto adjoining lots is prohibited.
 - (2) Nonconforming use of a building may be extended throughout the building.
 - (3) A nonconforming use may be extended to a new building on the same lot, in compliance with Subsection D(4) and (5), herein, and provided that the nonconforming use continues in the existing building.
 - (4) Physical expansion of a nonconforming building or a nonconforming use shall be permitted only one time, and shall be limited to 25% of the gross floor area of the existing building.
 - (5) In addition to Subsection D(1), (2), (3) and (4), above, nonconforming uses must comply with the following:
 - (a) Extension and/or expansion as permitted in Subsections D(1), (2), (3) and (4), above, shall be permitted by special exception only to the extent that all new construction shall comply with the dimensional standards of the district in which the use is located or the district in which the use is permitted, whichever is more restrictive.
 - (b) When a nonconforming use is expanded, the applicant must comply with all performance standards of the district in which the use is permitted or the district in which the use is located, whichever is more restrictive. The performance standards include, but are not limited to, the following:
 - [1] Parking.
 - [2] Landscaping.
 - [3] Lighting.
 - [4] Signage.
 - [5] Noise.
 - [6] Building and impervious surface coverage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (6) In addition to Subsection D(1), (2), (3) and (4), above, in cases where a building or structure is nonconforming as to front, side or rear yard setbacks, an addition may be built on a line with the existing building, as long as it does not create an additional encroachment into a required yard. Any further encroachment with regard to required setbacks will require a variance. Any

expansion under this section shall comply with the following standards:

- (a) Expansion shall not be permitted to extend closer to the road ultimate right-of-way than the front wall of the existing dwelling closest to the road.
- (b) Expansion shall not be permitted to create a new violation of the minimum side yard setback. An existing dwelling that violates the side yard may be expanded to the rear along the side yard building setback established by the wall of the existing building.
- (c) An existing dwelling that violates the rear yard may be expanded to the sides along the rear yard building setback established by the rear wall of the existing building.

E. Additional building regulations. The following regulations shall apply to buildings:

- (1) When new ordinance provisions are adopted and affect planned construction which has not been completed:
 - (a) Buildings under construction, to the extent of completion of footings, may be completed as nonconforming buildings provided that valid building permits have been issued for those buildings.
 - (b) Buildings not yet under construction shall be built in conformance to this chapter.
 - (c) The use or uses of such buildings shall comply with the permitted uses for the district in which they are located.
- (2) Nonconforming primary structures damaged or destroyed by fire, explosion, accident or calamity (as contrasted to deterioration due to time or neglect) may be reconstructed and used as before, provided that:
 - (a) The reconstructed building shall not exceed the dimensions of the damaged or destroyed building, including height, width, depth and volume.
 - (b) Building reconstruction shall be started within one year from the date the building was damaged or destroyed, and shall be carried out without interruption.
 - (c) The building will pose no hazards to safety by virtue of its location.
- (3) Legally condemned nonconforming buildings shall not be rebuilt or used except in conformance with this chapter.

F. Development of nonconforming lots. A single-family detached dwelling unit may be constructed on a nonconforming lot in a residential district in accordance with the dimensional requirements of the district. Relief from dimensional requirements which present a hardship may be sought through the Zoning Hearing Board variance procedure.

G. Contiguous undeveloped lots. Where two or more contiguous lots are held in single ownership, which lots are individually not of the required minimum area or width for the district in which they are situated, such lots may be developed only in groups thereof in order to provide the minimum lot area and width required. When all lots in single ownership are combined and still do not meet area and/or width requirements, they may be considered a single nonconforming lot in accordance with Subsection F, herein.

H. Nonconforming signs. If and when a nonconforming sign is replaced, the new sign shall comply with

the requirements of this chapter. "Replacement" shall not include simply revising the text or color of the sign, but shall refer to structural replacement and/or relocation of the sign.

§ 285-45. Administration. [Amended 11-9-1995 by Ord. No. 95-8]

- A. Registration. The Zoning Officer shall maintain a list and map of properties with nonconforming status, including uses, buildings, structures, lots and signs. For each property identified, the Zoning Officer shall have on file a written record documenting the evidence and reasoning that led to the assignment of nonconforming status.
- B. Jurisdiction. In all matters pertaining to nonconforming status, the Zoning Officer shall make the initial determination.
- (1) The Zoning Officer may seek the advice of the Township Planning Commission, Township Solicitor and/or others in making a determination.
 - (2) If it cannot be determined by means of positive documentation that a use or structure was in lawful existence at the time an ordinance or amendment would have rendered it nonconforming, the Zoning Officer must refuse to confer nonconforming status.
 - (3) If the applicant disagrees with the Zoning Officer's determination, the applicant may appeal to the Zoning Hearing Board as provided by law.
 - (4) Appeals to the Zoning Hearing Board may be in the following forms:
 - (a) Request for an interpretation to determine whether or not the subject property qualifies as nonconforming.
 - (b) Request for special exception, as applicable under nonconforming regulations.
 - (c) Request for a variance from the nonconforming regulations otherwise applicable to the subject property.

ARTICLE VII
General Regulations

§ 285-46. Applicability of regulations.

The regulations contained in this article shall apply to the entire Township for the subjects covered herein. However, if a conflict occurs between the standards of the general regulations and any other standards of this chapter then the more restrictive standards shall apply. Subdivision and/or land development proposals are further regulated by Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick. The following activities, among others, are considered land development:

- A. Addition of one or more buildings (except accessory buildings) to a lot which contains an existing building.
- B. Division of one or more buildings into spaces for leasehold, ownership or other forms of tenancy (except for residential conversions resulting in three or less dwelling units).
- C. Construction of one nonresidential building on a lot.

§ 285-47. Water supply and sewage disposal.

All development in the Township shall be served by water supply and sewage disposal facilities which are appropriate for the type of land use, physical characteristics of the land, location in the Township, and availability of existing water and sewage systems, and shall be further regulated by the requirements below:

- A. Individual onlot facilities. Individual onlot water supply and sewage disposal facilities shall be used in all zoning districts where central water and/or sewer facilities are not available. Written proof of compliance with the applicable state regulations must be provided to the Zoning Officer before occupancy permits will be issued.
- B. Facilities serving more than one lot, dwelling, use or building. Facilities under this heading may be classified as "common," "shared" or "central," and include public water supply and public sewage disposal, and shall comply with the following:
 - (1) These facilities shall not be located on building lots, but shall be located on a separate lot used only for these utilities, or for utilities and open space.
 - (2) Written proof of compliance with the applicable state regulations must be provided to the Zoning Officer before occupancy permits will be issued for development served by these facilities.
 - (3) These facilities shall comply with the requirements of § 285-54 herein regarding ownership and maintenance of common elements.
 - (4) Offsite central water and/or sewage facilities must be used for development when they are available.
 - (5) Sewage treatment plants serving mobile home parks, single --family attached residences and/or multi -family residences may only be located in a Zoning District that permits those residential uses. [Amended 1-10-2024 by Ord. No. 2024-01]

§ 285-48. Access to public street.

Unless otherwise specified in this chapter, each and every lot shall abut a public street for at least 50 feet at the right-of-way line of the public street; and said 50 feet must be usable for purposes of ingress and egress to the lot.

§ 285-49. Corner lots.

A front yard setback shall be measured from the ultimate right-of-way for each lot line abutting a public or private right-of-way. The lot lines intersecting ultimate rights-of-way shall be treated as side lot lines. All other lot lines shall be considered rear lot lines.

§ 285-50. Flag lotting. [Amended 3-8-2007 by Ord. No. 2007-04]

The concept of flag lotting is permitted under this chapter in accordance with the following criteria and in compliance with § 285-48, Access to public street, other applicable requirements of this chapter, and the flag lotting provisions of Chapter 240, Subdivision and Land Development:

- A. Minimum lot area. No less than 80,000 square feet in net lot area shall be permitted as a flag lot. The access strip portion of the flag lot is not to be considered when calculating the net lot area.
- B. Front, side and rear yards. Front, side and rear yards shall all be in compliance with the dimensional standards applicable to the type of lot as listed below:
 - (1) Lot under conventional lotting (minimum net lot area of 80,000 square foot): 50 feet.
 - (2) Lot under rural lotting (minimum thirty-acre gross lot area): 150 feet.
- C. Shared driveways serving more than one single-family detached dwelling are prohibited.
- D. The access strip portion of the flag lot may not exceed 400 feet in length. All driveways shall satisfy the slope requirements of Chapter 235, Article III, Driveway Construction, of the Upper Frederick Township Code.
- E. Only one flag lot is permitted in any subdivision. Furthermore, in that subdivision, no additional flag lots shall be permitted in the future.

§ 285-51. Potential inability to develop to maximum density.**[Added 1-14-2010 by Ord. No. 2010-01]**

There is no guarantee that a parcel of land can be developed to the maximum density, and the physical constraints of a development, a landowner's choice of dwelling style/footprint, or other factors may limit the landowner's ability to develop the maximum number of dwelling units permitted by the maximum density calculation. A development plan of a landowner shall still be required to comply with all applicable minimum requirements of the Zoning District in which the property is located.

~~Refuse collection facilities.~~

~~In all zoning districts, on land developed for nonresidential uses, refuse collection facilities must be provided by the applicant, either inside the building(s) or within an area enclosed by either walls or opaque fencing.~~

- ~~A. These facilities shall be architecturally compatible with the building(s).~~
- ~~B. Walls or fencing shall be designed to shield the refuse facilities from direct view from adjacent properties, to a height of at least six feet.~~
- ~~C. These facilities shall be designed in a manner which can accommodate large collection trucks.~~
- ~~D. Landscaping is encouraged around these facilities.~~
- ~~E.A. Refuse facilities attached to, detached from or within buildings shall be subject to same building setback requirements.~~

§ 285-52. Landscaping and buffering.

All proposals subject to the requirements of this chapter shall be landscaped and buffered from adjacent properties in compliance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick.

§ 285-53. Open space regulations.

When open space or open land is required to be permanently preserved for common benefit and use by the requirements of this chapter, the regulations of this section shall apply.

A. Open space characteristics. Open space shall be characterized by one or more of the following:

- (1) Active and/or passive recreation areas.
- (2) Environmentally sensitive and attractive areas such as:
 - (a) Woodlands.
 - (b) Lakes, ponds, streams.
 - (c) Floodplain as defined in this chapter.
 - (d) Slopes exceeding 15% as delineated by the Montgomery County Soil Survey, by accurate contour mapping on the applicant's plan, or otherwise in accordance with Article XV, Steep Slope Conservation District, of this chapter.
 - (e) Farmland which is to be continued in agricultural use.
 - (f) Riparian Corridor Conservation District. **[Added 9-10-2009 by Ord. No. 2009-07]**

B. Open space design requirements. Permanently preserved open space shall:

- (1) Be designed as a continuous system of usable areas, interspersed among groupings of residential dwelling units, wherever practicable.
- (2) Be interconnected with common open space areas on abutting parcels wherever possible.
- (3) Be provided with safe and convenient access by adjoining public road frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle and maintenance vehicle traffic and containing appropriate access improvements.
- (4) Be provided with sufficient perimeter parking when necessary, as in public recreation areas.
- (5) Be comprised of areas not less than 50 feet in width and not less than 11,000 square feet of contiguous area, except that individual tot-lots shall be included in the total required open space area.
- (6) Be designed so that not more than 25% of the open space is used as buffers between development and existing roads, and no more than 50% is floodplain, as defined herein.
- (7) Not be divided by crossing of public or private roads except where necessary for proper traffic circulation.
- (8) When required, open space includes Riparian Corridor Conservation area. The RCC area shall be vegetated in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance. **[Added 9-10-2009 by Ord. No. 2009-07]**

C. LPD standards. The following shall apply under the standards of the R-80 Land Preservation District (LPD):

- (1) In addition to the standards of § 285-53, proposals shall comply with the neighborhood open space and open land standards found in the R-80 Land Preservation District regulations.
 - (2) For proposals under LPD, if any conflict exists between the requirements of § 285-53 and the LPD standards, then the LPD standards shall prevail.
- D. Offer of dedication. All common open space and recreation facilities required by this chapter may be offered for dedication to the Township, although the Township need not accept any such offers.
- E. Required recreation facilities. The applicant shall install recreation facilities in the open space in conformance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick, regarding recreational facilities.
- F. Height limitation of fences and walls. No fence or wall over six feet in height, except a retaining wall, or a wall of a building permitted under the terms of this chapter, shall be erected within any of the open spaces required by this chapter unless that portion of the fence or wall which exceeds six feet in height has a ratio of open area to solid area of at least 4:1. The Zoning Hearing Board may authorize by special exception the erection of walls or fences of greater height in such cases as may be necessary to provide adequate protection, shielding or screening of open storage or equipment areas.

§ 285-54. Private ownership and maintenance of common elements.

Common elements including, but not limited to, open space, recreation, sewer, water and stormwater management facilities which will not be publicly owned, shall be subject to a form of ownership established in private agreements acceptable to the Board of Supervisors. Such private ownership including, but not limited to, corporate, individual, condominium, landlord or fee-simple home or landowners' association, shall be governed by the following:

- A. Access to and use of these common elements may be restricted to the property owners or tenants within the development, and their guests, unless the Township accepts public dedication of all or any part of any open space.
- B. Perpetual maintenance shall be guaranteed by trust indenture or similar instrument, or by deeding the open space to a land trust or conservancy or similar organization, as approved by the Board of Supervisors, which instrument or deed shall be referenced on the final plan:
- (1) Shall be recorded with the Montgomery County Recorder of Deeds simultaneously with the final plan.
 - (2) Shall restrict the open space from development, by deed restriction, granting the Township the right to enforce the restrictions.
 - (3) Shall include provisions for:
 - (a) Bonds posted by the developer to cover expenses incurred before formation of a homeowner's association.
 - (b) Adjustment of association fees to account for inflation and increase costs.
 - (c) A reserve fund to cover capital improvement and/or unforeseen major maintenance requirements.
 - (d) Funding of professional management, expert consultants and supplies.

- (e) Township review and approval of revisions to any part at any time.
- (4) Shall authorize the Township to maintain the common elements and assess the private ownership 100% of such maintenance, or foreclose on said bonds or funds to cover said maintenance, if private ownership fails to function as required in the private agreement.
 - (a) The Township may, at the discretion of the Board of Supervisors, decide to relieve the private ownership organization of some or all of its maintenance responsibilities in the event of a functional failure that has or threatens to have undesirable impact on surrounding property owner or the general public.
 - (b) The necessity for continued Township maintenance shall be reviewed at public hearing within one year of the Township having assumed the responsibility, and if the private ownership is demonstrated to have resumed the capability of maintenance, the responsibility shall revert to the private ownership. If the private ownership cannot demonstrate capability, a public hearing shall be held on an annual basis until maintenance can be resumed by the private ownership or until dedication of the common elements is accepted by the Township.
 - (c) Any administrative, capital, labor or operating costs incurred by the Township in assuming the maintenance responsibilities of the private ownership organization shall be recoverable from the owner of property, individually or collectively, in the subject development.
- C. Review of maintenance budget. At the time a preliminary plan for subdivision or land development is submitted, the developer shall submit to the Township a budget for the maintenance of open space, and reimburse the Township for the cost of a professional to assess the budget for future adequacy.

§ 285-55. Projections into required yards.

No building and no part of a building shall be erected within or shall project into any required yard in any district, except that:

- A. An unenclosed porch, not more than 14 feet in height, may be erected to extend into a required front or rear yard setback a distance of not more than 10 feet, provided that in no case shall it extend into such front or rear yard more than 1/2 the required depth of the yard.
- B. A terrace, patio, deck, platform or landing place, not covered by a roof, canopy or trellis, which does not extend above the level of the first floor of the building, may be erected to extend into a required side or rear yard a distance of not more than 12 feet, provided that it shall not extend into such yard more than 40% of the required depth or width of the yard.
- C. A carport may be erected over a driveway in a required side yard, provided that such structure is:
 - (1) Not more than 14 feet in height and 20 feet in length.
 - (2) Entirely open on at least three sides, exclusive of the necessary supporting columns and customary architectural features.
 - (3) At least three feet from the side lot line.
- D. A buttress, chimney, cornice, pier or pilaster of a building may project not more than 18 inches into a required yard.
- E. Open, unenclosed fire escapes, steps, bay windows and balconies may project no more than three feet

into a required rear yard.

§ 285-56. Lighting.

No lighting of private property shall be permitted that shall cause a hazard or a nuisance to abutting roads and properties.

- A. When lighting is observed to be a potential hazard or nuisance regarding public roads, the Township Zoning Officer shall make a determination as to the need to relocate, diminish, reorient or remove the light fixtures in question, with the advice of the Township Engineer. The determination shall be made mainly in terms of the effect of the lighting on traffic safety, such as from glare or brightness interfering with a driver's ability to see safely.
- B. When lighting is observed to be a potential hazard or nuisance to an abutting property, the Zoning Officer shall make a determination as in Subsection A, above, when requested by the effected property owner. The following shall be used as criteria:
 - (1) No light shall shine directly into the windows of a building on abutting property.
 - (2) No light shall shine directly onto the ground or improvements thereof of an abutting property.
 - (3) Incidental light may be permitted to fall on abutting property.

§ 285-57. Environmental assessment statement.

Where an environmental assessment statement is required by this chapter, it shall be submitted to the Board of Supervisors in compliance with regulations and shall contain the information that follows:

- A. A description of all proposed facilities.
- B. A physical description of the environment affected including, but not limited to, summary technical data and maps and diagrams adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be attached as appendices or footnoted with adequate bibliographic references.
- C. The interrelationship and cumulative environmental (including economic) impact of the proposed facilities and other solid waste disposal facilities shall be stated with adequate technical analysis.
- D. The sources of data used to identify, quantify or evaluate any and all of environmental consequences must be expressly noted.
- E. Specific data relating to the impact of the proposed facilities on natural and man-made local storm drainage facilities and areas.
- F. Specific data relating to the impact of the proposed facilities on sanitary sewage disposal.
- G. Specific data relating to the impact of proposed facilities on the existing floodplain areas of the Township, including details of any measures or precautions which may have to be taken in order to provide adequate flood control in the Township.
- H. A statement of any probable adverse environmental effects which cannot be avoided-such as water or air pollution, undesirable land use patterns, damage to life systems, congestion, threats to public health, safety or welfare or other consequences adverse to the environment. Included for purposes of contrast should be a clear statement of how other avoidable adverse effects will be mitigated.

- I. The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves short-term environmental gains at the expense of long-term losses, or the converse, and an explanation of the extent to which the proposed action forecloses future options. In this context, the words short-term and long-term should be viewed in terms of the environmentally significant consequences of the proposed action.
- J. The aesthetic impact of the proposed action including its impact upon visual quality of the surrounding community.
- K. An analysis of the success and/or failure of similar projects, if the proposed project is a nonconventional nature. Determination of the conventional or nonconventional character of the proposed project will be made by the Township Board of Supervisors as advised by the Township Engineer.
- L. A statement of any effects on desirable employment, taxes and property values.
- M. A statement of any effects on desirable community growth.
- N. A statement describing the location and impact of the project on nearby recreation areas.
- O. In developing the above data, applicant shall convey the required information succinctly in a form easily understood both by members of the public and by public decision-makers, giving attention to the substance of the information conveyed rather than the particular form, or length or detail of the statement. Statements should indicate, at appropriate points in the text, any underlying studies, reports and other information obtained and considered by the applicant in preparing the statement. Care should be taken to insure that the statement remains an essentially self-contained instrument capable of being understood without the need for cross reference.
- P. Each environmental statement should utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision-making which may have an impact on the environment. Application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic and environmental consequences.
- Q. Such other reasonable information as reasonably required by the Board of Supervisors, Township Planning Commission, Township Engineer and/or Township Solicitor.

§ 285-58. Environmental protection.

- A. All uses shall be developed and operated in a manner that preserves the quality of the existing environment and of any natural amenities present on the site.
- B. All uses shall provide for the preservation and the minimum destruction of natural drainage areas, minimum grading and destruction of the ground surface, the preservation of substantial stands of trees and forested areas and the preservation of attractive views and any other natural features existing on the site.
- C. No land or structure in any zoning district shall be used or occupied in any manner that creates any:
 - (1) Dangerous, injurious, noxious or otherwise objectionable condition.
 - (2) Fire, explosive or other hazards.

- (3) Heat, electromagnetic or other radiation.
- (4) Noise or vibration.
- (5) Smoke, dust, odor or other form of air pollution or any other condition in such manner or in such amount as to adversely affect the reasonable use or value of the surrounding area or adjoining premises or be dangerous to public health or safety.

§ 285-59. Public utilities.

The provisions of this chapter shall not be so construed as to limit or interfere with the construction, installation, operation and maintenance of public utility structures or facilities in existence at the time of passage of this chapter, or which may hereafter be located with public easements or rights-of-way designated for such purposes. The location of any such construction not within a public easement or right-of-way, however, unless specifically provided for in this chapter, shall be subject to approval of the Zoning Hearing Board, which shall give consideration to the effect of such constructions or installation upon the public safety and the character of the adjacent neighborhood.

§ 285-60. Effect of private covenants.

Nothing herein contained shall be construed to render inoperative any enforceable restriction established by covenants running with the land, and which restrictions are not prohibited by or are not contrary to the regulations herein established.

§ 285-61. Conditional use. [Amended 6-13-2002 by Ord. No. 02-09]

An application for any conditional use as specified in the various parts of this chapter shall be considered by the Township Supervisors according to the following procedure:

A. Application.

- (1) The application shall be submitted in writing to the Township Planning Commission.
- (2) The application shall include the request for approval of a conditional use and sufficient information to document compliance with the applicable standards of this chapter; a tentative sketch plan of the proposed development shall be included.
- (3) The Township Planning Commission shall submit one copy of the application to the Montgomery County Planning Commission for its advisory review, one copy to the Township Board of Supervisors, and other copies to agencies and/or technical consultants whose review may be relevant.

B. Public hearing.

- (1) The Board of Supervisors shall schedule a public hearing within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of this time limit. The hearing shall be conducted by the Board, or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the applicant may, prior to the decision of the hearing, waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- (2) Public notice of the public hearing, stating the time, place and the particular nature to be

considered, shall be published twice in a newspaper of general circulation in the Township. 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.

(3) The Board of Supervisors shall consider the comments and recommendations of the Township and County Planning Commissions, other advisors and those present at the public hearing prior to deciding to approve or deny the proposed use. In allowing a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter. Examples of such include, but are not limited to:-

(a) Alternate site layouts.

(b) Alternate circulation patterns for vehicles, bicyclists, and pedestrians.

(c) Increased setbacks, if it will reduce impacts on adjacent property owners or screen view from the public right-of-way.

(d) Landscape buffers or fences, if the provision of such will reduce impacts on adjacent property owners or screen view from the public right-of-way.

(e) Limitation on the permitted hours-of-operation so as to minimize impacts on the surrounding community.

(~~a~~)~~f~~ Other changes deemed necessary by the Board of Supervisors to meet the goals and objectives of this chapter, and of the community goals as expressed in the Upper Frederick Township Comprehensive Plan; Upper Frederick Township Recreation, Park Open Space Plan; and the Central Perkiomen Valley Regional Comprehensive Plan.

(~~3~~)~~4~~ In deciding all applications for conditional uses the Board of Supervisors shall be guided by the following standards and criteria:

(a) The proposed use shall be one permitted by conditional use and one that will conform to the applicable regulations of the district in which it is located.

(b) The proposed use shall be considered in light of the general standards for Zoning Hearing Board decisions in § 285-35 of this chapter.

(c) The proposed use shall developed in a manner consistent with community goals as expressed in the Upper Frederick Township Comprehensive Plan; Upper Frederick Township Recreation, Park Open Space Plan; and the Central Perkiomen Valley Regional Comprehensive Plan.

(d) The proposed use shall not be detrimental to the character of the community. The scale and design of development shall be architecturally compatible with the existing community.

(e) The proposed use shall not be detrimental to nor adversely affect other uses of property in the vicinity of the subject property.

(f) The proposed use shall not generate excessive noise, noxious odors, air pollution, or lighting that could be a nuisance or safety hazard to the general public.

(g) The proposed layout of vehicle and pedestrian facilities shall be safe for all users.

(~~b~~)~~h~~ The conditional uses shall be served by adequate public facilities, including streets, water (public or private), sanitary sewage (whether public or private, on-lot or

centralized), fire protection, stormwater control, parks and recreation uses and other public facilities and services.

~~(4)~~(5) The Board of Supervisors shall render a written decision on the application within 45 days after the last hearing in which the Board considered the application.

~~(5)~~(6) The procedure to be followed by the Board of Supervisors in rendering a decision shall be the same as followed by the Zoning Hearing Board and as set forth in § 285-34.

C. Expiration. [Added **DATE** by Ord. No.2025-11]

- (1) Unless otherwise specified by the Board, a conditional use shall expire one year after the date of the decision unless the applicant has applied for and has been granted a building permit and construction has commenced. This expiration date may be extended by the Board of Supervisors upon good cause shown. All parties who originally received notification of the Board's decision in the matter shall be notified of the extension, at the applicant's expense.
- (2) If a conditional use approved by the Board of Supervisors is discontinued or terminated for a period of one year or more, then the same shall be deemed abandoned, and said use may not be resumed without a new conditional use approval by the Board of Supervisors

§ 285-62. Regulation of Uses.

A. Intent. It is the intent of this section is to provide clear and specific standards for land uses permitted within the various zoning districts of the Upper Frederick Township. It is the intent of these standards to promote the health, safety, and general welfare of residents of the township.

B. Applicability and interpretation.

- (1) No building, structure, land, lot or premises shall be used for any purposes other than as permitted by the applicable zoning district. Any use not listed in this chapter shall be considered prohibited in Upper Frederick Township.
- (2) When a use is proposed, the Zoning Officer shall make the final determination on which use classification described herein best or most closely defines or matches the use being proposed. If a proposed use meets the definition of more than one use classification, as defined herein, the use classification which matches most precisely shall be applied.
- ~~(3)~~(3) All uses permitted by right, by conditional use or by special exception, shall be subject to the use regulations herein, as well as any applicable district regulations, and any other applicable provisions as specified in this chapter. If there is a conflict between a specific use regulation and any other applicable regulation of this chapter, the more restrictive regulation shall apply.
- (4) The provisions of Article XV, Steep Slope Conservation District; Article XVI, Floodplain Conservation District; and Article XXIV, Riparian Corridor Conservation District, shall supersede the provisions of this section and of § 285-63 through § 285-66.

C. Regulation of Uses.

- (1) Use regulations applicable to accessory uses are provided under § 285-63, Accessory Use Regulations.
- (2) Use regulations applicable to residential uses are provided under § 285-64, Residential Use Regulations.
- (3) Use regulations applicable to agricultural uses are provided under § 285-65, Agricultural Use Regulations
- (4) Use regulations applicable to nonresidential uses are provided under §285-66, Nonresidential Use Regulations.

§ 285-63. Accessory Use Regulations

An accessory use must be subordinate to a principal use of a lot and any such accessory use is subject to applicable zoning district regulations, the use regulations established herein, and all other applicable regulations of this chapter. Accessory uses not listed in this section are not permitted, except in cases when the Zoning Officer interprets an accessory use to be subordinate and customarily incidental to the principal use of the subject

property.

A. Accessory Dwelling Unit (ADU). An accessory dwelling unit (ADU) is a permanent dwelling unit that is accessory to a single-family dwelling that is located on the same lot. An ADU may be internal to the principal dwelling or within a detached accessory building. See also: **elder cottage**. An ADU shall satisfy the following requirements:

(1) Application and permitting.

(a) A site development plan shall be required, at a scale not less than one inch equals 20 feet, subject to the following:

[1] Property boundary lines.

[2] The location of the existing principal dwelling, existing accessory buildings and the proposed ADU.

[3] Minimum set back lines as specified in the zoning district in which the ADU is proposed.

[4] Dimensions from the property boundary lines and all existing buildings to the proposed ADU.

[5] Lot area.

[6] Total square footage of the proposed ADU.

[7] Total building and impervious surface coverage for all existing buildings and the proposed ADU.

[8] The location, size and extent of all underground utilities and the connection of these utilities to the proposed ADU.

[9] Existing right-of-way and easements within the property boundary lines.

[10] _____ The location of the boundary of the Floodplain Conservation District, slopes in excess of 15%, wetlands or other natural features that may affect the location of the ADU or its parking area.

(b) Permit required. Applicants wishing to install an ADU on their property must obtain a permit from the Township to operate a rental unit in accordance with **Chapter 202, Rental Property**. Each permit will expire on December 31 of each year and may only be renewed by making application for a new permit. The annual fee for the ADU use permit shall be set by resolution of the Board of Supervisors. Each permit application shall be accompanied by a certificate, in the form of an affidavit, verifying that either the principal dwelling or the ADU is occupied by the owner of record of the property.

(2) Limitation.

(a) An ADU shall only be permissible on lots of two (2) acres or greater.

(b) One detached or one internal ADU may be permitted per lot where a single-family detached dwelling is established as the principal use of the lot.

(3) Occupancy.

(a) The use permit for the ADU shall be in effect only so long as either the principal dwelling or the ADU is occupied by the owner of record of the property.

(b) No more than three individuals shall occupy an ADU.

(4) General design and development standards for all ADUs.

(a) The maximum permitted floor area of an ADU shall be the lesser of 50% of the living area of the principal residence or 1,200 square feet.

(b) All ADUs shall have an entrance separate from the entrance to the principal residence. A secondary form of egress shall also be provided.

(c) Required parking spaces associated with the accessory unit shall share the driveway of the principal residence and conform to all applicable standards of the underlying zoning district.

(5) Internal ADU standards. There shall be no external alteration of the building to accommodate an internal ADU except as may be necessary for reasons of safety or improved design for an otherwise permissible dwelling unit. Any alterations shall reflect the architectural character of the existing building. Fire escapes and outside stairways shall, where practicable, be located to the rear of the building.

(6) Design and development standards for detached ADUs.

- (a) A detached ADU shall meet all setback and coverage requirements for principal structures in the underlying zoning district. Furthermore, a detached ADU shall not be permitted to be located between the front façade of the principal residence and a public street or other right-of-way.
- (b) A detached ADU shall be separated by a minimum distance of 24 feet from the principal residence.
- (c) A detached ADU shall not exceed the height of the existing principal dwelling.
- (d) The design of the detached ADU shall relate to the design of the principal residence by use of similar exterior wall materials, window types, door and window trims, roofing materials, and roof pitch. Further, windows on the ADU shall be offset from neighboring residences so as to preserve privacy.
- (7) When a detached ADU is manufactured home, the following installation standards shall apply:

 - (a) Any such manufactured home shall be placed upon a concrete pad foundation that is at least two (2) feet in length and width beyond the dimensions of the manufactured home to be placed thereon (thereby creating a two-foot perimeter surrounding the manufactured home). The concrete pad shall be properly graded, placed, and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons. An applicant may seek approval from the Township Engineer for an alternative foundation design, provided that a Licensed Engineer provides evidence (i.e., specifications) that the maximum anticipated loads can be supported by such.
 - (b) The Township Engineer may approve alternative foundation design, provided that a Licensed Engineer provides specifications for such that are acceptable to the Township Engineer.
 - (c) The ADU shall be physically anchored to the ground via an anchoring system designed to resist a minimum wind velocity of 90 miles per hour.
 - (d) All such ADUs shall have skirts installed for the purpose of screening the underside of a manufactured home by forming an extension of the vertical exterior walls of the home and covering the entire distance between the bottom of the exterior walls and the ground elevation below. The skirts must complement the appearance of the ADU and must be compatible with the single-family home unless the foundation of the elder cottage fulfills the same purpose.
 - (e) The hitch or tow bar attached to an elder cottage for transport purposes must be removed prior to occupancy.
- (8) Sewage disposal and water supply.

 - (a) The ADU shall be physically connected to those sewage disposal and water supply systems serving the principal dwelling. No separate systems or connections shall be constructed or used.
 - (b) The Sewage Enforcement Officer shall review and approve the proposed sewage disposal method, whether it is proposed to remain as-is or is proposed for modification/expansion in accordance with **§ 285-47, Water supply and sewage disposal.**
 - (c) The applicant shall provide the Township with a performance bond of an amount set by resolution of the Board of Supervisors to ensure adequate sewage disposal and potable water supply. In the event that there is a sewage failure and there is no repair within 30 days after notice by the Township, the use of the ADU will be discontinued immediately.
- (9) Deed restriction required. Before obtaining a building permit for an ADU, the property owner shall file with the Montgomery County Recorder of Deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner stating that:

 - (a) The accessory unit shall not be sold separately or subdivided.
 - (b) The accessory unit is restricted to the approved size.

- (c) The use permit for the accessory unit shall be in effect only so long as either the principal residence or the accessory unit is occupied by the owner of record of the principal residence.
- (d) The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement and/or revoking of the use permit.
- (e) The deed restrictions shall lapse upon removal of the accessory unit.

B. Elder Cottage. A small manufactured or modular, freestanding dwelling unit specifically designed for elderly, disabled or handicapped persons; that is designed to be temporary in nature and transportable; and that may be installed on the same lot as an existing single-family detached dwelling unit as an accessory use. An elder cottage shall satisfy the following requirements:

(1) Application and permitting.

- (a) A site development plan, at a scale not less than one-inch equals 20 feet, subject to the following:
 - [1] Property boundary lines.
 - [2] The location of the existing principal dwelling, existing accessory buildings and the proposed elder cottage.
 - [3] Minimum set back lines as specified in the zoning district in which the elder cottage is proposed.
 - [4] Dimensions from the property boundary lines and all existing buildings to the proposed elder cottage.
 - [5] Lot area.
 - [6] Total square footage of the proposed elder cottage.
 - [7] Total building and impervious surface coverage for all existing buildings and the proposed elder cottage.
 - [8] The location, size and extent of all underground utilities and the connection of these utilities to the proposed elder cottage.
 - [9] Existing right-of-way and easements within the property boundary lines.
 - [10] The location of the boundary of the Floodplain Conservation District, slopes in excess of 15%, wetlands or other natural features that may affect the location of the elder cottage or its parking area.
- (b) Permit required. Applicants wishing to install an elder cottage on their property must obtain a permit from the Township to operate such a use. Each permit will expire on December 31 of each year and may only be renewed by making application for a new permit. The annual fee for the elder cottage use permit shall be set by resolution of the Board of Supervisors. Each permit application shall be accompanied by a certificate, in the form of an affidavit, verifying that:
 - [1] The occupant of the principal dwelling will reside in either the principal dwelling or the elder cottage for as long as both units exist on the property.
 - [2] At least one occupant of the elder cottage is either over 62 years of age or is unable to live independently because of mental or physical illness or disability. If the occupant of the elder cottage is unable to live independently because of mental or physical illness and is under 62 years of age, then the applicant shall provide a certificate of disability from a medical doctor.
 - [3] At least one occupant of the principal residence and at least one occupant of the elder cottage is related by blood, marriage or adoption.
 - [4] The owner of the principal residence agrees that the elder cottage shall be removed from the property within 180 days after it is no longer occupied by a person who qualifies for the use and occupancy permit.
 - [5] The owner of the principal residence agrees that the Township may remove the unit and sell it to defray its costs if the unit is not removed within 180 days after the elder cottage ceases to be a legal use.

(2) Occupancy.

- (a) At least one occupant of the elder cottage must be over 62 years of age or must be unable to live independently because of mental or physical illness or disability.
 - (b) At least one occupant of the principal residence and at least one occupant of the elder cottage must be related by blood, marriage or adoption.
 - (c) In no case shall there be more than two occupants of the elder cottage.
 - (d) The owner of the principal residence must live in one of the dwelling units on the lot.
 - (3) Dimensional requirements.
 - (a) An elder cottage shall only be permissible on lots of two (2) acres or greater.
 - (b) The maximum permitted floor area of an ADU shall be the lesser of 50% of the living area of the principal residence or 1,200 square feet.
 - (c) The maximum height of an elder cottage shall be 16 feet or one story.
 - (d) An elder cottage shall meet all setback and coverage requirements for principal structures in the underlying zoning district.
 - (e) An elder cottage shall not be permitted to be located between the front façade of the principal residence and a public street or other right-of-way.
 - (f) An elder cottage shall be set back no less than 15 feet from the principal residence on the lot.
 - (4) Utilities.
 - (a) The elder cottage shall be physically connected to those sewage disposal and water supply systems serving the principal dwelling. No separate systems or connections shall be constructed or used.
 - (b) The Sewage Enforcement Officer shall review and approve the proposed sewage disposal method, whether it is proposed to remain as-is or is proposed for modification/expansion in accordance with § 285-47, **Water supply and sewage disposal.**
 - (c) The applicant shall provide the Township with a performance bond of an amount set by resolution of the Board of Supervisors to ensure adequate sewage disposal and potable water supply. In the event that there is a sewage failure and there is no repair within 30 days after notice by the Township, the use of the elder cottage will be discontinued immediately.
 - (5) Parking. Required parking spaces associated with the elder cottage shall share the driveway of the principal residence and conform to all applicable standards of the underlying zoning district.
 - (6) Installation standards.
 - (a) The elder cottage shall be placed on a temporary foundation of easily removable materials so that the lot may be restored to its original use after removal, with as little expense as possible. Suitable temporary foundations include, but are not limited to, pressure treated timbers or piers of concrete block.
 - (b) The elder cottage shall be physically anchored to the ground via an anchoring system designed to resist a minimum wind velocity of 90 miles per hour.
 - (c) All elder cottages shall have skirts installed for the purpose of screening the underside of manufactured homes by forming an extension of the vertical exterior walls of the home and covering the entire distance between the bottom of the exterior walls and the ground elevation below. The skirts must complement the appearance of the elder cottage and must be compatible with the single-family home unless the foundation of the elder cottage fulfills the same purpose.
 - (d) The hitch or tow bar attached to an elder cottage for transport purposes must be removed.
- C. Accessory Use, Nonresidential. A building, structure, or use of land customarily incidental to a nonresidential use permitted in nonresidential zoning districts and legally established as a principal use of the premises. A nonresidential accessory use shall satisfy the following requirements:
- (1) General standards.
 - (a) A nonresidential accessory use shall meet the principal building setbacks for the district in which it is located. Further, no accessory structure may be erected or placed within

the required front setback area or between the front facade of the principal building and the right-of-way of a public street.

(b) An accessory use shall not be used to establish an unrelated use on the premises.

(c) A trailer, freezer, or shipping container, whether or not removed from its wheels, shall not be used as a nonresidential accessory structure.

(2) Outdoor display or storage of merchandise, goods, articles or equipment as a nonresidential accessory use.

(a) No merchandise, goods, articles or equipment shall be stored, displayed or offered for sale outside any building except seasonal articles which are too large or cannot be feasibly stored indoors. Such articles shall be stored adjacent to the building housing the tenant selling the articles and shall be enclosed by either walls or opaque fencing that are at least six feet high and are designed to be architecturally compatible with the building.

(b) Any outdoor display or storage areas shall be considered to be sales floor area for the purposes of computing building coverage and for computing parking requirements.

(c) All outdoor storage areas must be located within the building envelope, as created by the applicable dimensional requirements. No outdoor storage area shall be located between the principal building(s) on a site and public streets, nor shall it be located closer than 25 feet to any side or rear property line, nor 25 feet from any other structure. Furthermore, no part of a public right-of-way, buffer area, stormwater management systems, or required parking spaces shall be used for outdoor storage.

(d) No materials shall be deposited upon a lot in such a manner that they may be transferred off the lot by natural causes such as wind or stormwater.

(e) The practice of storing any abandoned or junked automobiles, vehicles, machinery or discarded equipment of any kind, or parts thereof, in or on any public or private property, vacant or occupied within Upper Frederick Township shall be deemed to be and constitute a nuisance and is hereby prohibited.

(3) Refuse collection facilities, including the storage of refuse inside a building or within an outdoor area completely enclosed by either walls or opaque fencing (a dumpster enclosure), as a nonresidential accessory use.

(a) Such facilities may only be located in the side or rear yards; such facilities must be set back at least 10 feet from all property lines.

(b) Such facilities shall be architecturally compatible with the building(s).

(c) Walls or fencing shall be designed to shield the refuse facilities from direct view from adjacent properties, to a height of at least six (6) feet.

(d) Such facilities shall be designed in a manner which can accommodate large collection trucks.

(e) Landscaping is encouraged around such facilities.

D. Accessory Use, Residential. A building, structure, or use of land intended for the private use of the owner or occupant of a single-family dwelling, which is situated on the same lot as the residence, and used for common household purposes, storage or vehicular parking, including, but not limited to, a detached garage or carport for no more than four vehicles, storage shed, gazebo, deck, barn, private greenhouse, or shelter for up to four household pets. A residential accessory use shall satisfy the following requirements:

(1) Dimensional requirements.

(a) A residential accessory structure or building shall have a maximum height of 15 feet.

(b) A residential accessory structure that is 750 square feet or less in floor area shall be set back a minimum of five (5) feet from any side or rear lot line.

(c) A residential accessory structure exceeding 750 square feet shall be required to meet the principal building setbacks for the district in which it is located.

(d) No residential accessory structure, regardless of size, may be erected or placed within the required front setback area or between the front facade of the principal building and the right-of-way.

(2) The parking or storage of vehicles as a residential accessory use.

- (a) Up to four (4) surface parking spaces shall be permissible on a single-family lot, excluding any carport or garage.
 - (b) A carport may be erected over an existing driveway in a required side yard, provided that such structure is not more 30 feet in length or width, entirely open on at least three sides (exclusive of the necessary supporting columns) and meets the dimensional standards of subsection (1), above.
 - (c) Routine parking of not more than two commercially registered vehicles with not more than four axles each, which are used regularly or frequently for business purposes shall be permitted. Routine parking of more than two such vehicles shall constitute a business operation and shall not be permitted in a residential district.
- (3) Keeping of livestock as a residential accessory use.
 - (a) A minimum lot area of two (2) acres shall be required.
 - (b) Any structure intended for the keeping or raising of livestock or poultry shall be setback a minimum of 100 feet from any right-of-way, any public or private wells, or to any property line. Furthermore, a 50-foot setback shall be required from any dwelling unit.
 - (c) Such an operation shall be completely enclosed by fencing.
 - (d) The maximum number of animals permitted shall be as follows:
 - [1] Horses, cows, and other animals of a similar size shall be permitted at a rate of two (2) such animals for the first two acres of lot area, plus an additional two (2) animals per acre beyond two.
 - [2] Sheep, goats or other animals of a similar size shall be permitted at a rate of four (4) such animals for the first two acres of lot area, plus an additional four (4) animals per acre beyond two.
- (4) Keeping of chickens, turkey, ducks, quail, or other poultry as a residential accessory use.
 - (a) The maximum number of chickens, turkey, ducks, or other poultry permitted shall be as follows:
 - [1] A lot with a minimum area of up to one (1) acre shall be permitted up to six (6) such animals.
 - [2] A lot with an area between one (1) to two (2) acres shall be permitted up to twelve (12) such animals.
 - [3] A lot exceeding two (2) acres shall be permitted twelve (12) such animals for the first two (2) acres, plus an additional twelve (12) such animals per acre beyond two (2). Any fraction of an acre shall be rounded down to the nearest whole number.
 - (b) Enclosure and shelter required.
 - [1] All such animals shall be kept within an enclosed area with fencing composed of durable materials, such as wood and wire mesh, extending underground for at least one (1) foot and having an above ground height of four (4) feet. The enclosed area shall provide a minimum of 10 square feet per animal.
 - [2] All such animals shall be provided with a secure, fully enclosed coop that is contained within the enclosed area. There shall be at least three (3) square feet of space for each animal within the coop.
 - [3] Enclosures and shelters shall be no closer than ten (10) feet to any property line and no closer than twenty-five (25) feet to any residential structure
- (5) Residential swimming pools as a residential accessory use.
 - (a) A swimming pool, filters, pumps and other mechanical equipment shall not be located within the required side and rear yard areas, within a front setback area, or between the front facade of the principal building and the right-of-way.
 - (b) The surface area of the water within a swimming pool shall be included in the calculation of impervious surface area for the lot.
 - (c) Water contained in swimming pools must be kept healthy and sanitary at all times and shall not emit offensive odor that creates a nuisance or unhealthy condition. If such

conditions are observed, the pool may be considered abandoned and, as such, shall be removed or appropriately filled in.

- (d) The pool shall meet current UCC regulations or shall be completely enclosed by a fence or wall not less than four feet in height, with a self-locking gate as access. In addition, swimming pools equipped with elevated platforms or walkways that are at least four feet above the ground need not be fenced if the design prevents access by ladders or steps which can be made inaccessible and locked when not attended or in use.

E. Bed and Breakfast Home. A home occupation that provides one to ten rooms for occasional paying guests on an overnight basis for periods not to exceed 30 days. A bed-and-breakfast is allowed only in an owner-occupied single-family detached dwelling. A bed-and-breakfast home shall satisfy the following requirements:

- (1) A bed-and-breakfast home shall have no more than ten guest bedrooms, accommodating no more than 30 guests at any one time. Furthermore, no paying guest shall stay on any one visit for more than 30 days.
- (2) Meal service is limited to two daily meals per paying overnight guest. Owners shall comply with all federal, state and local requirements for the preparation, handling and serving of food.
- (3) Owner shall maintain a current guest register, which shall be provided to the township upon request.
- (4) Bed-and-breakfast homes may not sell alcoholic beverages.
- (5) Each bed-and-breakfast facility shall be equipped with smoke detectors and fire extinguishers in accordance with the requirements of the Pennsylvania Department of Labor and Industry, the Property Maintenance Code, and/or Building Code. Guests shall be provided with information regarding the floor plan of the building and the location of emergency exits.
- (6) If the facility is served by an onsite sewage system, the owner must obtain written approval from the Township Sewage Enforcement Officer confirming the adequacy of the system to serve the increased demand resulting from the facility.
- (7) A bed-and-breakfast use shall be permissible on lots of two (2) acres or greater.

F. Family Child Care Home. As defined by 55 Pa. Code § 3290, Family Child Care Homes are "facilities in which out-of-home care is provided, at any one time, for part of a twenty-four-hour day to four, five or six children who are not related to the operator and who are 15 years of age or younger." A family child care home shall satisfy the following requirements:

- (1) A family child-care home may only be located in a single-family detached dwelling.
- (2) Any addition or improvement to an existing residential structure or property for purposes of child care shall preserve its residential character. The scale, bulk, height, and roof pitch of any addition and the building materials used shall be compatible with the existing structure.
- (3) When an outdoor play area is provided there shall be fencing of adequate height (four-foot minimum) along the perimeter of any outdoor play area in order to physically contain the activity of children. Play equipment, such as a swing set or slide, shall not be located closer than 10 feet from any property line.
- (4) An on-site drop-off area shall be provided with sufficient area to allow the temporary parking of at least two vehicles.
 - (a) An existing driveway may be used for the drop-off area if it can be demonstrated that there is sufficient space available in the driveway, which is not otherwise occupied or committed, to safely accommodate two parked vehicles. If a driveway is used for the drop-off area and the property fronts an arterial or collector street, then an on-site turnaround area shall be provided so that vehicles can exit the site driving forward.
 - (b) In cases where the existing driveway cannot function as a drop-off area, new on-site drop-off spaces shall be provided.
- (5) Hours of operation. The hours of operation shall be limited to the hours between 6:30 a.m. and 6:00 p.m.
- (6) All facilities must have a certificate of compliance (license) from the PA Department of Human Services in order to operate. Proof of licensure shall be provided to the township upon request.

(7) In addition to the requirements herein, compliance with all applicable provisions of 55 Pa. Code Chapter 3290 is required.

(8) The requirements herein shall not apply to care provided relatives or care furnished in places of worship during religious service.

G. Home-Based Business, Minor. A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which may involve no more than one employee and limited customer or client appointments on-site. A minor home-based business shall satisfy the following requirements:

(1) A minor home based-business may only be established where a single-family dwelling is the principal use of the lot.

(2) No more than one minor home based-business shall be allowed per adult resident.

(3) The minor home based-business shall be compatible with the residential use of the property and surrounding residential uses.

(4) The minor home based-business shall be conducted only on a part-time basis and, as such, shall occur for no more than 20 hours within any seven (7) day period.

(5) A maximum of two (2) employees that need not reside in the residence may work on-site at any given time.

(6) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(7) The hours of operation, hours of drop-off/pickup of clients or their belongings, and times of delivery to/from the premises shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

(8) There shall be no outside appearance of a business use, except for any signage as may be permitted by **Article XX, Signs**.

(9) The minor home based-business 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.

(10) No outside storage of material, goods, supplies or equipment related to the operation of the minor home based-business shall be allowed. All storage shall take place within a walled structure.

(11) The minor home based-business may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

(12) When a minor home based-business is conducted within the dwelling, it may not occupy more than 25% of the habitable floor area.

(13) Legally established accessory structures may be utilized for a minor home-based business in accordance with the following limitations:

(a) A lot with a minimum area of one (1) acre may utilize an accessory structure up to 300 square feet for a minor home-based business.

(b) A lot with an area between one (1) to two (2) acres may utilize an accessory structure up to 600 square feet for a minor home-based business.

(c) A lot exceeding two (2) acres may occupy accessory structure(s) up to 1% of the total lot area, up to a maximum of 1500 square feet, for a minor home-based business.

(14) The business may not involve any illegal activity.

H. Home-Based Business, No-Impact. business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. A no-impact home-based business shall satisfy the following requirements:

(1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(2) The business shall employ no employees other than family members residing in the dwelling.

(3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.

I. Noncommercial Antennas and Satellite Dishes. Antennas and satellite dishes for home use, ham radio, citizen band (CB) radio, and two-way or one-way radio for public safety. Noncommercial antennas and satellite dishes shall satisfy the following requirements (see also: § 285-67, **Wireless communications facilities; small wireless facilities**):

(1) Standards for all antennas and satellite dishes.

- [1] No antenna or satellite dish shall be located in or protruding into a required front yard setback or any yard area abutting a public street.
- [2] The antenna or satellite dish shall be installed in the location that will shield its view from the street or from neighboring properties to the greatest extent feasible.
- [3] No antenna or satellite dish shall be permitted within that portion of a yard required to be a landscaped buffer area by any provision of this section.
- [4] No dish shall exceed 12 feet in diameter or height.
- [5] No more than one satellite dish shall be permitted on any lot. If more than one antenna is required, it shall be placed on a shared structure with other antennas.

(b) Standards for ground-mounted noncommercial antennas and satellite dishes.

- [1] A ground-mounted satellite dish or antenna shall be located in the side or rear yard of the lot and shall be set back no less than 25 feet from any property line.
- [2] When ground-mounted, the antenna or satellite dish shall be screened from public streets or adjoining residential districts or uses by the installation of a fence, or by planting evergreen trees or shrubs which form a complete visual barrier.
- [3] Permanent, extendable, retractable, or telescoping ground-mounted support structures and accompanying antenna that is accessory to a permitted use may be erected to a maximum height of 65 feet above mean ground level.

(c) Standards for roof-mounted noncommercial antennas and satellite dishes.

- [1] Roof-mounted antenna and satellite dishes may be erected only when the applicant demonstrates that ground mounting and compliance with the applicable yard, setback, and height restrictions would result in the obstruction of the antenna's reception window; further, such obstruction involves factors beyond the applicant's control.
- [2] Antennas and satellite dishes may be erected on the roof of a principal or accessory building up to a maximum height of 25 feet above the maximum height of the building on which it is affixed.
- [3] Antennas and satellite dishes may be erected on the roof of a principal building may protrude no more than three (3) feet into a side yard.

J. Solar Energy Systems, Ground-Mounted. A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity. A ground-mounted solar energy system shall satisfy the following requirements:

- (1) Ground-mounted solar energy systems shall be permitted in all zoning districts as an accessory use to a permitted principal use.
- (2) Ground-mounted solar energy systems may only be located between the rear face of the principal building on-site and the rear property line.
- (3) The minimum setbacks from all property lines shall be 25 feet.
- (4) All solar panels shall have an anti-reflective coating.

- (5) For purposes of determining compliance with coverage standards of the applicable zoning district, the total horizontal projection area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, arrays, and inverters shall be considered pervious coverage provided that pervious conditions are maintained underneath the solar photovoltaic cells, panels, and arrays.
- (6) A solar energy system may be established as an accessory use only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
- (7) To the extent applicable, the solar energy system shall comply with the Pennsylvania Uniform Construction Code, Acts 35 and 36 of 2017, as amended, the 2018 International Residential Code, as amended, and the regulations adopted by the Department of Labor and Industry.
- (8) All installers must be on the official list of registered installers through the Pennsylvania Department of Environmental Protection's Solar Sunshine Program.
- (9) Owners of solar energy systems are encouraged but not required to obtain solar easements from neighboring landowners to ensure solar access. The township does not guarantee and will not protect any individual property rights with respect to solar access.

K. Solar Energy Systems, Roof-Mounted. A solar energy system located on the roof of any legally permitted building or structure that produces electricity. A roof-mounted solar energy system shall satisfy the following requirements:

- (1) Roof-mounted solar energy systems shall be permitted in all zoning districts as an accessory use to a permitted principal use.
- (2) Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
- (3) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- (4) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- (5) Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- (6) All solar panels shall have an anti-reflective coating.
- (7) All roof-mounted solar energy systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.
- (8) A solar energy system may be established as an accessory use only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.
- (9) A roof-mounted solar energy system shall comply with the roof access and pathways requirements of the construction codes then in effect in Upper Frederick Township, pursuant to the Pennsylvania Uniform Construction Code Act, as amended.
- (10) To the extent applicable, the solar energy system shall comply with the Pennsylvania Uniform Construction Code, Acts 35 and 36 of 2017, as amended, the 2018 International Residential Code, as amended, and the regulations adopted by the Department of Labor and Industry.
- (11) All installers must be on the official list of registered installers through the Pennsylvania Department of Environmental Protection's Solar Sunshine Program.
- (12) Owners of solar energy systems are encouraged but not required to obtain solar easements from neighboring landowners to ensure solar access. The township does not guarantee and will not protect any individual property rights with respect to solar access.

L. Wireless Communications Facilities and Small Wireless Facilities shall be permitted pursuant to **§ 285-67, Wireless Communications Facilities; Small Wireless Facilities.**

§ 285-64. Residential Use Regulations

The following principal residential land uses are subject to applicable zoning district regulations, the use regulations established herein, and all other applicable regulations of this chapter.

- A. Dwelling, single-family attached (townhouse).** A single-family attached dwelling, also known as a "townhouse" or "rowhouse," is a single-family attached or, the case of end units, semidetached dwelling within a multi-dwelling building. A single-family attached home shall satisfy the following requirements:
- (1) A maximum of four (4) single-family attached dwellings may be connected to one another in a contiguous row.
 - (2) Each unit shall occupy the total space from ground to roof and shall be joined to each other by not more than two vertical, common/party walls that serve as the lot line(s) dividing the properties.
 - (3) Façade recesses or protrusions of two (2) to four (4) feet shall be provided on the front façade of alternating dwelling units so as to define each dwelling unit's façade. Other architectural articulation to add visual interest, such as changes in color and material, is encouraged to further define each dwelling unit from its neighbor(s).
- B. Dwelling, single-family detached.** A dwelling unit designed and used exclusively as the residence for only one family, that is the only dwelling unit located on the parcel it is situated on, and that is not attached to any other structures or dwelling units, except accessory structures permitted by this chapter. A single-family detached dwelling may be established on the same lot as an Agricultural Use (see §285-TBD).
- C. Dwelling, single-family semidetached (twin home).** A dwelling unit designed and used exclusively as the residence for only one family, that is the only dwelling unit located on the parcel it is situated on, and that is attached to one other such dwelling unit along a shared party wall that acts as a lot line separating the two dwelling units and parcels of land.
- D. Dwelling, two-family detached (duplex).** A building having two separate dwelling units, one over the other and/or side-by-side, where both dwelling units are located on a single parcel under common ownership. A two-family detached dwelling shall satisfy the following requirements:
- (1) The duplex must be located entirely on one lot, with front, rear, and two side yards of the required depth for the district in which it is located.
 - (2) Separate ingress and egress must be provided to each unit.
- E. Institutional Residential Uses,** including the following defined uses, shall be permitted pursuant to Article XIV, IR – Institutional and Recreational District.
- (1) Intermediate Care Facility. A facility that provides nursing care and related medication or other personal health services on a regular basis to individuals who do not require a degree of care or treatment which a hospital or skilled nursing care facility is designed to provide, but who, because of their mental or physical disability, require hospital or skilled nursing services within the context of a planned program of care and administrative management, supervised on a continuous twenty-four-hour basis in an institutional setting. [Skilled nursing and personal care facility definitions are drawn from state legislation (House Bill No. 1278, effective December 22, 1988) regulating personal care facilities].
 - (2) Personal Care Facility. A premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, and who do not require the services of a skilled nursing or intermediate care facility, but who do require assistance or supervision in matters such as dressing, bathing, diet or medication prescribed for self-administration.
 - (3) Skilled Nursing Care Facility or Nursing Home. A premises in which nursing care and related medical or other health services are provided, for a period exceeding 24 hours, for two or more individuals, who are not relatives of the operator, who are not acutely ill or in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or mental infirmity need such care.
 - (4) Continuing Care Retirement Community (CCRC). A development, licensed as required, which: is operated as an integrated unit on one or more adjacent parcels of land, under common ownership; provides a range of housing, care and services to and for the elderly, handicapped and/or mentally ill, together with a variety of ancillary facilities intended to meet the social, recreational, cultural and religious needs of the residents; and provides, as part of such care, three levels of health care, including independent living, assisted living (also referred to as a "personal care facility") and long-term and short-term skilled nursing care.

F. Mobile home park shall be permitted pursuant to Article XIII, MHP Mobile Home Park Development.

§ 285-65. Agricultural Use Regulations

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, silviculture, aquiculture, animal and poultry husbandry, and accessory uses as permitted herein are subject to applicable zoning district regulations, the use regulations established herein, and all other applicable sections of this chapter. An agricultural use may include a single-family detached residence and accessory uses thereto, as provided for in this chapter. Agricultural use shall satisfy the following requirements:

- A. The use of machinery designed and used for agricultural operations including, but not limited to, crop dryers, feed grinders, sawmills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing, and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act shall be permissible as part of an agricultural operation.
- B. Barns, silos or other major agricultural buildings as an accessory use to agriculture:
- (1) Facilities for the packing, treating and storing of goods (e.g., grain, produce and the like) produced on-site shall be permissible as an accessory use to agriculture.
 - (2) Any such agricultural building may be a maximum height of 60 feet.
 - (3) Any such agricultural building shall be setback a minimum of 100 feet from any right-of-way, any public or private wells, or to any property line. Furthermore, a 50-foot setback shall be required from any dwelling unit.
- C. Retail sale of agricultural and/or horticultural products as an accessory use to agriculture:
- (1) Any structure or building associated with the retail sale of agricultural and/or horticultural products shall meet the setback and coverage requirements for principal structures in the underlying zoning district.
 - (2) Permissible buildings or structures shall include stands, carts, wagons, sheds or other movable structures.
 - (3) A maximum total gross floor area of all structures associated with the retail sale of agricultural and/or horticultural products shall be 5,000 square feet. Any use exceeding 5,000 square feet shall be considered a principal use and, as such, shall only be allowed in zoning districts where such use is permitted.
 - (4) No parking area, sign, display or other structure shall intrude into the legal right-of-way of any public road.
 - (5) At least 75% of such products shall have been grown on the property on which they are offered for sale.
- D. The keeping of livestock or poultry as an accessory use to agriculture:
- (1) A minimum lot area of two (2) acres shall be required.
 - (2) Any structure intended for the keeping or raising of livestock or poultry shall be setback a minimum of 100 feet from any right-of-way, any public or private wells, or to any property line. Furthermore, a 50-foot setback shall be required from any dwelling unit.
 - (3) Such an operation shall be completely enclosed by fencing.
 - (4) The maximum number of animals permitted shall be as follows:
 - (a) Horses, cows, and other animals of a similar size shall be permitted at a rate of two (2) such animals for the first two acres, plus an additional two (2) animals per acre beyond two.
 - (b) Sheep, goats or other animals of a similar size shall be permitted at a rate of four (4) such animals for the first two acres, plus an additional four (4) animals per acre beyond two.
 - (c) Chickens, turkey, ducks, quail, or other poultry shall be permitted at a rate of twelve (12) such animals for the first two acres, plus an additional twelve (12) animals per acre beyond two.
- E. Agritourism as an accessory use to agriculture:
- (1) Activities conducted on and accessory to a duly established agricultural use offered to the public for the purpose of recreation, education, or active involvement in the farm operation shall be considered agritourism and, as such, shall be permissible as an accessory use to agriculture. A

narrative description of the proposed agritourism activities shall be provided at the time of application submittal. In particular, the following agritourism activities and facilities are permissible:

- (a) U-pick produce operations (e.g., apples, berries, pumpkins, etc.).
 - (b) Christmas tree farms.
 - (c) Wineries or cideries, including tasting rooms.
 - (d) Agriculture educational and learning experiences, including tours.
 - (e) Petting zoos.
 - (f) Equine riding academy or boarding stable, including the stabling, care, training, boarding, and/or riding of horses.
 - (g) Any agritourism activity not listed above may be permitted by special exception, in accordance with **Article IV, Zoning Hearing Board.**
- (2) A minimum lot area of 10 acres shall be required.
 - (3) Where physical improvements (e.g., grading, construction, etc.) are required, the applicant shall submit a land development plan identifying the location of the agritourism enterprise, all farm buildings, dwellings, existing and proposed driveways, access drives, parking areas, location of storm water management facilities (as required), sanitary facilities (as required), and landscaping.
 - (4) Prepared food available for sale shall be prepared in accordance with applicable federal, state, or local regulations. Evidence of compliance shall be submitted to the township.
 - (5) Evidence of compliance with **§ 285-47, Water Supply and Sewage Disposal**, shall be provided at the time of application submittal.
 - (6) The applicant shall provide the township with any county, state or federal permits required for the operation upon request.

F. Game farm, fish hatchery or similar uses as a principal or accessory agricultural use. A facility, building, lot, parcel, use, or group of facilities, buildings, and uses engaged in the breeding, hatching, raising, or management of fish or game animals for purposes including stocking, conservation, education, or regulated hunting shall be permissible as an agricultural use. Such use shall satisfy the following requirements:

- (1) Such uses may include necessary structures, water management systems, and enclosures for such purposes.
- (2) Such facilities may provide opportunities for sport fishing or hunting of wildlife raised on-site.
- (3) Only animals that are listed as legally eligible to be legally hunted or fished within the Commonwealth of Pennsylvania shall be permissible. All applicable permits from the Commonwealth shall be provided to the township upon application submittal.

§ 285-66. Nonresidential Use Regulations

The following principal land uses are subject to applicable zoning district regulations, the use regulations established herein, and all other applicable regulations of this chapter.

A. **Animal Care.** A facility specializing in the care of dogs, cats, or other common household pets. Such use may include animal hospitals, veterinary care and the overnight boarding, breeding, grooming, sale, training, and the like for household pets. An animal care establishment shall satisfy the following requirements:

- (1) Any animal care facility that involves the overnight lodging of dogs and other domestic pets (also known as “boarding”) shall require a minimum lot area of five (5) acres.
- (2) No animal shelter or run shall be permitted within 100 feet of any property line or within 200 feet of any dwelling located on an adjacent property.
- (3) A total screen buffer shall be provided along property boundaries with residential uses, to control noise and odor.
- (4) The total number of dogs per acre shall not exceed five per acre, not including dogs under six months old.
- (5) Proof of any applicable license or permit shall be provided to the township upon request.

B. **Artisanal Production or Retail Manufacturing.** A facility specializing in the manufacture and production of goods created on site by a craftsperson using hand tools and/or small-scale, light mechanical equipment. Examples of such work include pottery, fiber crafts, sculpture, leathercraft, jewelry, soaps, metalwork, cabinetry, stained glass, textile production, candle-making, and handmade

food products. Artisan manufacturing may also include demonstration/instruction in the production processes and the display or retail sale of goods produced on site. The following additional regulations shall be satisfied:

- (1) Artisanal Production or Retail Manufacturing shall not include any activity that causes noise, odor, or vibration to be detectable on a neighboring property.
- (2) Artisanal Production or Retail Manufacturing shall occupy a maximum of 5,000 square feet. Any use meeting the standards of such use, but which exceeds 5,000 square feet shall be considered “manufacturing, processing, and production” as regulated in this section.

C. Automobile Service. A facility, building, lot, parcel, use, or group of facilities, buildings, and uses specializing in the service or repair of automobiles, trucks, and other machinery. An automobile service facility may include any of the following services sale and servicing of spark plugs, batteries, distributors, and related parts; tire repair and servicing; replacement of mufflers, tail pipes, hoses, belts, brake fluid, light bulbs, fuses, mirrors, windshield wipers, and similar components; radiator repair, replacement, cleaning, and flushing; greasing and lubrication; repair and replacement of fuel pumps, oil filters, and lines; carburetor servicing and repair; emergency electrical repairs; brake adjustment and repair; engine repair and adjustment; repair or replacement of clutches, transmissions, differentials, axles, and springs; state vehicle inspections and associated repairs; provision of restrooms and informational materials for customers. An automobile service facility shall satisfy the following requirements:

- (1) All repair work shall be performed within an enclosed structure or building.
- (2) The storage of parts, tires, and fluids shall be within an enclosed area.
- (3) Employee and customer parking shall be clearly identified and shall not be utilized for the storage of for-repair vehicles except when customers are retrieving their vehicles following service.
- (4) Automobile body work, including but not limited to the following services, shall not be permissible as part of an automobile service facility: collision repair, body or frame repair, painting or refinishing, replacement of bumpers or fenders, replacement of glass, or custom body work.
- (5) Up to three (3) vehicles for sale may be offered at an Automobile Service facility, provided that for-sale vehicles do not occupy any parking space that is otherwise required by this Chapter.

D. Bank or Financial Institution. A building or portion thereof where the primary use is the processing of credit or monetary transactions. Such use may include savings and loan, finance companies, credit unions and other similar financial or fiduciary institutions. A bank or financial institution shall satisfy the following requirements:

- (1) Drive-through facilities shall be prohibited alongside a bank or financial institution.

E. Contractor's Office/Storage. A facility, building, lot, parcel, use, or group of facilities, buildings, and uses including offices, workshops, and/or storage of materials for services rendered in the building trades, including carpentry, electric, furniture-making, heating and cooling, painting, plumbing, roofing, landscaping, and the like. A contractor's office/storage facility shall satisfy the following requirements:

- (1) All operations, other than deliveries, shall be conducted within a completely enclosed building.
- (2) No shipping or receiving shall be permitted between the hours of 7:00 p.m. and 8:00 a.m.

F. Daycare Facility. A facility and associated outdoor play areas in which out-of-home care is provided for part of a twenty-four-hour day for seven or more children under the age of 15 or any number of persons over the age of 15. Such use shall be distinct from a family child-care home. A daycare facility shall satisfy the following requirements:

- (1) When such facilities meet the definition of a child-care center, pursuant to 55 Pa. Code § 3270, or a group child-care home, pursuant to 55 Pa. Code § 3280, strict compliance with all applicable regulations is required. Any provision of child daycare shall comply with the Articles IX and X of the Public Welfare Code, Act of June 13, 1967 (P.L. 31), as amended.
- (2) Proof of state licensure shall be provided to the township upon request.
- (3) No portion of a child day-care facility shall be located within 300 feet of any potentially hazardous land use or activity which could pose a threat to the safety and welfare of the children, staff, and other occupants at the facility. Hazardous land uses or activities include, but shall not be limited to, medical marijuana dispensaries, medical marijuana growers/processors, gasoline service stations, dry cleaners, industrial operations, storage of flammable or high-pressure underground pipelines, and truck or rail loading areas.

- (4) Such facilities shall include constant supervision of clients during all hours of operation.
 - (5) When an outdoor play area is provided there shall be fencing of adequate height (four-foot minimum) along the perimeter of any outdoor play area in order to physically contain the activity of clients. Play equipment, such as a swing set or slide, shall not be located closer than 25 feet from any property line.
 - (6) A minimum of 40 square feet of interior floor area shall be provided for each client, excluding for such calculation halls, kitchen, staff areas, utility rooms and bathroom areas.
 - (7) A drop-off/pick-up area with sufficient capacity for one (1) parking space per four (4) clients shall be provided on site. The parking spaces for drop-off/pick-up may be the same as required by the minimum parking requirements of this chapter.
 - (8) A transportation impact study, prepared in accordance with § 285-68, shall be required for a daycare facility.
- G. Emergency Services.** A facility, building, lot, parcel, use, or group of facilities, buildings, and uses that provides for ambulance, fire, police, rescue, and other emergency services of a municipal or volunteer nature.
- H. Funeral Home.** A building or portion thereof used for human funeral services or memorial services. Such facilities may contain provisions for chapel, embalming, viewing, and other services used in preparation of the deceased, including the storage of caskets, supplies, and funeral vehicles. A funeral home shall not include the provision of a crematorium, which shall be prohibited.
- I. Library, Museum, or Community Center.** A facility, building, lot, parcel, use, or group of facilities, buildings, and uses that is open to the general public or a subset thereof (e.g., senior citizens) for educational, social or recreational programs and other community uses and owned and operated by a civic, educational, municipal, philanthropic, religious, or other tax-exempt entity.
- J. Manufacturing, Processing, and Production.** A facility, building, lot, parcel, use, or group of facilities, buildings, and uses engaged in the manufacture or assembly of products, parts, or materials. The processing, fabrication, assembly, treatment, packaging, incidental storage, and distribution of such products is included under this use. Manufacturing, Processing, and Production facilities shall satisfy the following requirements:
- (1) All activity shall be contained entirely within a building or structure.
 - (2) All use permits shall be accompanied by a report signed by a registered architect or engineer certifying that no dust, vibration, odors, or fumes will be detectable at the property line.
 - (3) Pursuant to § 285-161, Dimensional standards, the maximum gross floor area for a single use shall be 15,000 square feet.
 - (4) A transportation impact study, prepared in accordance with § 285-68, shall be required for a manufacturing, processing and production facility.
- K. Office, Business/Professional.** A building or portion thereof in which services are performed by a member of a profession, including an accountant, architect, author, community planner, dentist, engineer, insurance agent, landscape architect, lawyer, notary, optometrist, physician, undertaker, real estate broker/appraiser, licensed health practitioner or ordained clergy. Such use may involve public access or appointment-only customer/client interaction. Such use shall not include the offices of medical or dental professionals, which are categorized as a “medical office.”
- L. Office, Medical.** A building or portion thereof in which offers scheduled appointments or walk-in service for the examination, diagnosis and/or treatment of medical or dental concerns for outpatients. Such facilities may include a reception/waiting area, examination rooms, X-ray or other imaging facilities, employee break rooms, pharmacy facilities, or other facilities that are incidental to a medical office or clinic. A medical office shall satisfy the following requirements:
- (1) Employed health care professionals shall be licensed in the Commonwealth of Pennsylvania.
 - (2) Overnight accommodations shall not be provided; however, patients may remain on the premises overnight when determined to be medically necessary due to medical emergency or extenuating circumstances.
 - (3) A transportation impact study, prepared in accordance with § 285-68, shall be required for a medical office.

- M. Place of Worship.** A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as administrative facilities, cemeteries, education or daycare facilities or dwelling(s) located on the same lot. A place of worship shall satisfy the following requirements:
- (1) A transportation impact study, prepared in accordance with § 285-68, shall be required for a daycare facility.
- N. Plant nursery and/or greenhouse.** The raising and/or retail sales (including wholesale) of trees, shrubs, grasses, annual and perennial flowers, houseplants, seeds, soil, mulch, hand tools, insecticides, fertilizers, and other horticulturally related items.
- O. Recreation and Entertainment, Indoor.** A building or portion thereof providing private or public walk-in or regularly scheduled recreation-oriented activities in an indoor setting. Examples of such facilities include, but are not limited to, arcade, billiard hall, bowling alley, health club, and skating rink.
- P. Recreation and Entertainment, Outdoor.** Land or facilities providing daily or regularly scheduled recreation-oriented activities for paying customers in an outdoor setting. Examples of such facilities include, but are not limited to, miniature golf courses, golf courses or driving ranges, sports or athletic fields and stadiums.
- Q. Research and Development.** A building or portion thereof wherein the conducting of scientific or medical research, investigation, experimentation or testing takes place. Such facilities shall not include the manufacture, production, or sale of products.
- R. Restaurant.** A building or portion thereof where food and beverages are sold for direct consumption on the premises or for take-out/carry-out service where such goods are consumed off-site. Such facilities may provide service to seated customers at a table or counter, and may include outdoor dining areas. A restaurant does not include establishments where food service is subordinate or incidental to the consumption of alcoholic beverages, entertainment, the rendering of services, or the sale of merchandise. A restaurant shall satisfy the following requirements:
- (1) Drive-through facilities shall be prohibited alongside a restaurant.
 - (2) Outdoor dining facilities, when provided, shall be kept sanitary, neat, and clean at all times. The accumulation of food or refuse shall be strictly prohibited.
 - (3) Outdoor dining facilities, when provided, shall be physically separated from drive aisles, parking spaces, or any motor vehicle traffic area by a bollard, wheel stop, fence, railing, or planter.
- S. Retail.** A building or portion thereof involved in the sale, lease, or rental of new or used products, not including vehicle sales or rentals. A retail facility shall satisfy the following requirements:
- (1) Any individual retail facility shall occupy a maximum gross floor area of 7,500 square feet; however, multiple tenant spaces may be occupied by different tenants, including other retail businesses, on the same premises or lot.
 - (2) Drive-through facilities shall be prohibited alongside a retail facility.
 - (3) The sale or marketing of products containing tobacco, nicotine, Delta-8 tetrahydrocannabinol, or Kratom shall be prohibited from a retail use.
 - (4) No skill-based game (see definition) shall be used or operated within a retail facility.
- T. Service or Personal Care Establishment.** A building or portion thereof engaged in providing service involving the care of a person or personal items. A personal care business requires direct, physical contact with the customer in the performance of a personal service. Examples of such use includes barbershops, beauty salons (including beauticians, nail manicurists, and estheticians), tanning salons, alternative therapy establishments, massage therapy establishments, and shops offering the services of tailors or seamstresses. When such use requires a license from the Commonwealth Department of Professional Occupations, proof of licensure shall be provided to the Township.
- U. Warehouse or Storage.** A facility, building, lot, parcel, use, or group of facilities, buildings, and uses engaged in the storage, wholesale, and/or distribution of manufactured equipment, goods, materials, products, or supplies. A warehouse or storage facility shall satisfy the following requirements:
- (1) All operations, other than deliveries, shall be conducted within a completely enclosed building.
 - (2) A transportation impact study, prepared in accordance with § 285-68, shall be required for a warehouse or storage facility.
 - (3) A warehouse or storage facility shall not involve the bulk storage of chemicals and materials that are explosive, inflammable or hazardous is expressly prohibited.

(4) Individual, leasable storage units—commonly known as “self-storage facilities”—are expressly prohibited.

V. **Wireless communications facilities** shall be permitted in accordance with **§ 285-67, Wireless communications facilities; small wireless facilities.**

~~§ 285-62. Accessory uses. [Amended 8-9-2001 by Ord. No. 01-1]~~

~~The following accessory uses, shall be permitted, subject to the additional requirements herein.~~

~~A.—Uses accessory to agriculture.~~

- ~~(1)—Greenhouses, barns and machine sheds, preparation of products produced on the premises for sale and/or use at other locations.~~
- ~~(2)—Retail sale of agricultural and/or horticultural products on a minimum tract of five acres in compliance with the following:

 - ~~(a)—At least 75% of such products shall have been grown on the property on which they are offered for sale.~~
 - ~~(b)—At least three parking spaces shall be provided, plus one additional space for each 200 square feet of building area over 600 square feet.~~
 - ~~(c)—Buildings, whether permanent or seasonal, shall meet the required setbacks of the district in which they are located, and no parking area, sign, display or other structure shall intrude into the legal right of way of any public road. Buildings shall include stands, carts, wagons, sheds or other movable structures.~~
 - ~~(d)—Maximum building coverage to house retail sales shall be .5% of the gross acreage of the property, with a maximum building coverage as an accessory use to be 5,000 square feet.~~
 - ~~[1]—More than 5,000 square feet shall be considered a primary use and shall be permitted only within the CB Commercial Business District.~~~~

~~[2]—All structures, including stands, sheds, barns, etc., with customer access shall be included in calculating building coverage.~~

~~(e) Vehicular access and parking shall comply with the requirements of § 285-155, Parking and circulation requirements of the CB Commercial Business District.~~

~~(3) Keeping of livestock in conjunction with agriculture, in accordance with the following:~~

~~(a) Livestock and/or other animals may be kept as part of an agricultural operation provided that the property on which they are kept is at least 10 acres in size, and setback requirements of the district or § 285-74, herein, whichever are greater, are met.~~

~~(b) The number of animals permitted shall comply with the rate standards of Subsection B(9)(b), herein. Such an operation shall be completely enclosed by fencing; and any building or enclosure used in conjunction with such an operation shall provide setbacks in compliance with the district in which they are located, or § 285-74, herein, whichever are greater.~~

~~(c) Operation of an animal feed lot shall not be permitted in any district.~~

~~B.—Uses accessory to dwellings. The following uses are permitted by right, however, approval as a special exception by the Zoning Hearing Board shall be required for uses that exceed the stated capacities or sizes, or that would involve use or storage of items other than those listed:~~

~~(1) Home occupations, subject to the provisions of § 285-65, herein.~~

~~(2) Detached private structure, with a total floor area of not more than 1,200 square feet.~~

~~(3) Private parking spaces, not to exceed four per dwelling unit (not counting garage spaces).~~

~~(4) Shelter for not more than four traditional house pets, none of which will grow to be larger than a large dog.~~

~~(5) Noncommercial greenhouse of less than 750 square feet in floor area.~~

~~(6) Detached storage sheds for garden equipment, household goods and/or sporting goods owned and used by the residents of the dwelling, with a total floor area of not more than 1,200 square feet.~~

~~(7) Noncommercial swimming pool or other recreational facilities, excluding facilities for use of motorized recreation vehicles.~~

~~(8) Barn, stable or other building whether or not used for livestock, on a lot at least two acres in area, subject to Subsection B(9), below and the building setback standards of § 285-74, herein.~~

~~(9) Keeping of horses and other large animals such as cattle, sheep or goats, not in conjunction with agriculture, in accordance with the following:~~

~~(a) A minimum lot size of two acres is required to keep such animals.~~

~~(b) Such animals may be kept at the following rates:~~

	On a Minimum Two Acre Lot	For Each Additional Acre
Horses, cows or other animals of a similar size	1 animal	1 animal
Sheep, goats or other animals of a similar size	4 animals	4 animals
These regulations shall be interpreted to mean one horse or one cow or four goats per unit of land		

~~(10) Satellite dish, in accordance with the provisions of § 285-67.~~

- ~~C.—Uses accessory to noncommercial recreational use. Customary recreation, refreshment and service uses and buildings in any noncommercial recreational area.~~
- ~~D.—Other accessory uses. Accessory uses other than those listed may be permitted in compliance with the requirements for principal uses in the district in which they are located and which they are accessory to.~~
- ~~E.A. Any other building not specified in Subsections A through D of this section, used for an accessory which exceeds 1,200 square feet in total floor area shall require a special exception from the Zoning Hearing Board, and shall be subject to the setbacks required by § 285-74, herein.~~

~~§ 285-63. Parking of commercial vehicles in residential district.~~

~~Routine parking of not more than two commercially registered vehicles with not more than four axles each, which are used regularly or frequently for business purposes shall be permitted. Routine parking of more than two such vehicles shall constitute a business operation and shall not be permitted in a residential district.~~

~~§ 285-64. Child day care facilities.~~

~~No structure or premise shall be used for the provision of child day care except in accordance with the provisions of this section.~~

- ~~A.—Any provision of child day care shall comply with the Articles IX and X of the Public Welfare Code, Act of June 13, 1967 (P.L. 31), as amended.~~
- ~~B.—A family day care home or group day care home shall be a permitted use in any zoning district, provided a copy of the certificate of compliance issued by the Department of Public Welfare shall be provided to the Zoning Enforcement Officer prior to the initiation of day care use.~~
- ~~C.—A day care center shall be a special exception use in any zoning district, and a copy of the certificate of compliance issued by the Department of Public Welfare shall be provided as a part of the special exception application.~~
- ~~D.—Child day care facilities shall meet the parking requirements found in §§ 285-168 and 285-170.~~

~~§ 285-65. Home occupation.~~

- ~~A.— Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business or the production of handicrafts on a residential site. The use is incidental and secondary to the use of the dwelling.~~
- ~~B.— All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform with the performance standards below, as well as all other applicable Township, state and federal regulations.~~
- ~~(1) The home occupation and its associated structures shall conform with all applicable dimensional standards for the zoning district.~~
 - ~~(2) Home occupations shall be conducted entirely within the residence, and the area used for the home occupation shall not exceed 25% of the gross floor area of the residence, except that the Zoning Hearing Board may permit the use of an accessory structure or the use of more than 25% of the residence by special exception where all other requirements of this section are met.~~
 - ~~(3) The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke or smell, electrical interference, fire hazard, traffic or any other nuisance not typically experienced in the zoning district where the property is located.~~
 - ~~(4) No use shall require internal or external construction features or the use of electrical, mechanical or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.~~
 - ~~(5) Signs shall conform to the provisions of Article XX of this chapter.~~
 - ~~(6) No outside storage of material, goods, supplies or equipment related to the operation of the home occupation shall be allowed. All storage shall take place within a walled structure.~~
 - ~~(7) Merchandise shall be limited only to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchased offsite for resale.~~
 - ~~(8) The home occupation shall have no more than two nonresident employees.~~
 - ~~(9) Any need for parking generated by the home occupation shall be met off street and in the side or rear yard of the structure in accordance with Article XIX of this chapter.~~
 - ~~(10) No more than one home occupation per adult resident shall be allowed.~~
 - ~~(11) Home occupations that attract customers, clients or students to the premises shall not be allowed in multifamily dwellings.~~

~~**§ 285-66. Bed and breakfast accommodations.**~~

~~Bed and breakfast accommodations may be operated as home occupations in single family detached, owner occupied buildings, subject to the following regulations:~~

- ~~A.— Bed and breakfast accommodations require approval of a special exception from the Zoning Hearing Board.~~
- ~~B.— A bed and breakfast enterprise shall have no more than five guest bedrooms, accommodating no~~

~~more than 10 guests at any one time; no paying guest shall stay on any one visit for more than 30 days.~~

~~C.—One off-street parking space for each guest bedroom shall be provided in a side or rear yard.~~

~~D.—Meal service is limited to one daily meal per paying overnight guest. Owners shall comply with all federal, state and local requirements for the preparation, handling and serving of food.~~

~~E.—Owner shall maintain a current guest register.~~

~~F.—Bed and breakfast accommodations may not sell alcoholic beverages.~~

~~G.—Each bed and breakfast facility shall be equipped with smoke detectors and fire extinguishers in accordance with the requirements of the Pennsylvania Department of Labor and Industry and with the stipulations of the Township Fire Code. Guests shall be provided with information regarding the floor plan of the building and the location of emergency exits.~~

~~H.—If the facility is served by an onsite sewage system, the owner must obtain written approval from the Township Sewage Enforcement Officer confirming the adequacy of the system to serve the increased demand resulting from the facility.~~

~~I.—A bed and breakfast use shall not be permitted on a lot with an area less than 80,000 square feet.~~

§ 285-67. Wireless communications facilities; small wireless facilities. [Amended 9-14-2000 by Ord. No. 00-3; 12-11-2014 by Ord. No. 2014-02; 3-8-2018 by Ord. No. 2018-01; 1-14-2021 by Ord. No. 2021-01]

A. Purpose.

- (1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of commercial and noncommercial wireless communications facilities in Upper Frederick Township. While the Township recognizes the importance of wireless communications facilities 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) Permit with minimal restriction the noncommercial, accessory use of radio and satellite dish antennas;
 - (b) Promote the health, safety, and welfare of Township residents and businesses with respect to commercial wireless communications facilities;
 - (c) 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;
 - (d) Establish procedures for the design, siting, construction, installation, maintenance and removal of communications support structures and communications antenna in the Township, including facilities both inside and outside the public rights-of-way;

- (e) Address new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, cable Wi-Fi, and other wireless communications facilities;
 - (f) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
 - (g) 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
 - (h) Update the Township's wireless facilities regulations to incorporate recent changes in federal and state laws and regulations.
- B. Definitions. The definitions found herein apply only to this Wireless Communications Facilities Ordinance and the regulations found herein.

ACCESSORY EQUIPMENT — Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, and storage sheds, shelters, or similar equipment.

AMATEUR RADIO (also called HAM RADIO) — The use of designated radio frequency spectra for purposes of private recreation, noncommercial exchange of messages, wireless experimentation, self-training, and emergency communication.

APPLICANT — Any person that applies for a wireless communication facility building permit, zoning approval, and/or permission to use the public right-of-way (ROW) or other Township-owned land or property.

CO-LOCATION — The mounting of one or more communications antenna on an existing communications tower, or on any structure that already supports at least one communications antenna, including the mounting of small wireless facility(ies) on existing utility poles or small wireless facility poles.

COMMUNICATIONS ANTENNA (ANTENNA) — Any system of wires, rods, discs, panels, flat panels, dishes, whips or other similar devices used for the transmission or reception of wireless signals, which may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna, including small wireless facility(ies). Communications antenna further includes, but is not limited to, related equipment. Communications antenna shall not include support structures for antenna or any related equipment that is mounted to the ground or at ground level. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment, including, without limitation, AM or citizen band radio antennas.

COMMUNICATIONS SUPPORT STRUCTURE (SUPPORT STRUCTURE) — Any structure that is used for the purpose of supporting one or more communications antenna, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles, and small cell towers and mini-towers. DAS hub facilities are considered to be communications support structures.

COMMUNICATIONS TOWER — Any structure that is used for the purpose of supporting one or more antenna or small wireless facility(ies), including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be communications towers.

DISTRIBUTED ANTENNA SYSTEM (DAS) — Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

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

FCC — Federal Communications Commission.

HEIGHT OF A SUPPORT STRUCTURE — The vertical distance measured from the ground level, including any base pad, to the highest point on a support structure, including antenna mounted on the support structure and any other appurtenances.

MONOPOLE — A communications support structure or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antenna and connecting appurtenances.

PERSON — Any individual, organization, or other legal entity.

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

SIGNIFICANT GAP or GAP IN SERVICE — An area where wireless communication coverage does not exist for any wireless communication operator. The existence or nonexistence of a gap in wireless coverage, and the size thereof, shall be a factor in the Township's decision on an application for installation of any WCF.

SMALL WIRELESS FACILITY POLE — A freestanding structure or other structure not classified as a wireless support structure that could support the placement or installation of small wireless facility(ies) if approved by the Township.

SMALL WIRELESS FACILITY(IES) — A wireless communications facility that meets the following conditions:

- (1) The communications facility is:
 - (a) Mounted on a structure 50 feet or less in height, including the antennas; or
 - (b) Is mounted on a structure no more than 10% taller than other adjacent structures; or
 - (c) Does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10%, whichever is greater.
- (2) Each antenna associated with the facility is no more than three cubic feet in volume.
- (3) The volume of all other equipment associated with the structure, whether ground-mounted or pole-mounted, and including the wireless equipment associated with the antennas and any pre-existing associated equipment on the structure, is cumulatively no more than 28

cubic feet. As used in this subsection, the following associated ancillary equipment are not included in the calculation of equipment volume:

- (a) Electric meter.
 - (b) Concealment elements.
 - (c) Telecommunications demarcation box.
 - (d) Grounding equipment.
 - (e) Power transfer switch.
 - (f) Cut-off switch.
 - (g) Vertical cable runs for the connection of power and other services.
- (4) The facility does not require FCC antenna structure registration.
 - (5) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by the FCC.

STEALTH TECHNOLOGY — Camouflaging methods applied to wireless communications support structures, antenna and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antenna, building-mounted antenna painted to match the existing structure, and facilities constructed to resemble trees, shrubs, and light poles.

SUBSTANTIAL CHANGE —

- (1) Any increase in the height of a communications 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, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth in the WBCA or the Upper Frederick Township Zoning Ordinance if necessary to avoid interference with existing antenna; or
- (2) Any further increase in the height of a communications 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.

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

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

WIRELESS COMMUNICATIONS FACILITY (WCF) — The antenna, nodes, control boxes, support structures, poles, conduits, wires, fibers, hubs, ducts, pedestals, electronics, network components, signal conversion equipment, and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating commercial wireless communications services.

WIRELESS SUPPORT STRUCTURE — A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township, not including small wireless facility(ies) poles.

~~C. Noncommercial antennas and satellite dishes.~~

~~(1) Permitted uses. Antennas and satellite dishes for home use, ham radio, citizen band (CB) radio, and two-way or one-way radio for public safety are permitted in all zoning districts.~~

~~(a) Ground-mounted. Permanent, extendable, retractable, or telescoping ground-mounted support structures and accompanying antenna that is accessory to a permitted or special use are permitted by right in all zoning districts and may be erected to a maximum height of 65 feet above mean ground level, provided same may only be located in a side or rear yard.~~

~~(b) Roof-mounted.~~

~~[1] Antennas and satellite dishes may be erected on the roof of a principal or accessory building in any residential district to a maximum height of 25 feet above the maximum height of the building on which it is located.~~

~~[2] Roof-mounted antenna and satellite dishes may be erected in any residential district when the following criteria are met:~~

~~[a] Demonstration by the applicant that ground mounting and compliance with the applicable yard, setback, and height restrictions would result in the obstruction of the antenna's reception window; further, such obstruction involves factors beyond the applicant's control.~~

~~[b] The height of the proposed installation does not exceed the maximum height restriction imposed upon primary and accessory uses within the district.~~

~~[c] Only one antenna or satellite dish may be permitted per lot.~~

~~[d] No satellite dish may exceed 12 feet in diameter.~~

~~[e] Antennas and satellite dishes shall be neutral in color and, to the extent possible, compatible with the appearance and character of the neighborhood.~~

~~(2) Standards for antennas and satellite dishes.~~

~~(a) No antenna or satellite dish shall be located in the front yard setback or any yard area abutting a street in any district. If ground-mounted, the dish or antenna shall be located in the side or rear yard of the lot. The antenna or satellite dish shall be installed in the location that will shield its view from the street or from neighboring properties to the greatest extent feasible. If mounting on a building, same shall not extend more than three feet into a side or rear yard and may not extend into a front yard or any yard area abutting a street in any district.~~

~~(b) No antenna or satellite dish shall be permitted within that portion of a yard required to be a landscaped buffer area by any provision of this section.~~

~~(c) When ground-mounted, the antenna or satellite dish shall be screened from public streets or adjoining residential districts or uses by the installation of a fence, or by planting evergreen trees or shrubs which form a complete visual barrier.~~

~~(d) No dish shall exceed 12 feet in diameter. No roof-mounted dish shall project more than eight feet from the roof. No ground-mounted dish shall exceed 12 feet in height.~~

~~(e) No more than one satellite dish shall be permitted on any lot. If more than one antenna is required, it shall be placed on a shared structure with other antennas.~~

D.C. General requirements for all communications antenna.

- (1) The following regulations shall apply to all small wireless facility(ies) and communications antenna that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
 - (a) Site plan. The applicant shall submit to the Township a site plan for all wireless communications facilities showing the antenna, antenna support structure, building, fencing, landscape buffering, access, landscaping and other requirements of Chapter 240, Subdivision and Land Development, and shall obtain a permit from the Township Zoning Officer.
 - (b) Prohibited on certain structures. Communications antenna shall not be located on single-family dwellings, two-family dwellings, multifamily dwellings, or any accessory residential structure.
 - (c) Standard of care. Communications antenna shall be designed, constructed, installed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Antenna shall at all times be kept and maintained in good condition, order and repair by qualified and trained maintenance, construction, and inspection personnel, so that the same shall not endanger the life of any person or any property in the Township.
 - (d) Accessory equipment. Ground-mounted related equipment greater than three cubic feet shall not be located within 50 feet of a lot in residential use or zoned residential.
 - (e) Wind. All communications antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
 - (f) Public safety communications. No communications antenna shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
 - (g) Aviation safety. Communications antenna shall comply with all federal and state laws and regulations concerning aviation safety.
 - (h) Radio frequency emissions. No communications antenna may, by itself or in conjunction with other antenna, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
 - (i) Historic buildings. No communications antenna may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of

historical significance.

- (j) Maintenance. The following maintenance requirements shall apply:
- [1] The communications antenna shall be fully automated and unattended on a daily basis and shall be visited only for routine maintenance, inspection, or emergency repair.
 - [2] Such maintenance, inspection and repairs shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - [3] All maintenance, inspection, and repair activities shall utilize the best available technology for preventing failures and accidents, and shall only be performed by trained and qualified personnel.
- (k) Removal. In the event that use of a communications antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned antenna or portions of antenna shall be removed as follows:
- [1] All abandoned or unused antenna and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Township.
 - [2] If the antenna or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the antenna and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the antenna. If said owner fails to pay for the cost of removal within 30 days, the Township may proceed to recover its costs through any proceeding in law or equity against the owner of the antenna, or by lien on the property where the antenna was located, or by pursuing any other legal remedy available to the Township as authorized under the provisions of the Second Class Township Code⁵ or by any other applicable local, state, or federal law or regulation.
- (l) Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the antenna and, once approved, in reviewing and evaluating any installation and any potential violation of the terms and conditions of this section. The applicant and/or owner of the antenna shall reimburse the Township for all reasonable costs and fees of said consultant and/or expert.
- (m) Insurance. Each person that owns or operates a communications antenna shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications antenna.
- (n) Indemnification. Each person that owns or operates a communications antenna shall, at its sole cost and expense, indemnify, defend, and hold harmless the Township, its elected and

2. Editor's Note: See 53 P.S. § 65101 et seq.

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

- (o) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications antenna for various reasons, including, but not limited to, visual impact, design, and safety standards.
 - (p) Inspection. The Township reserves the right to inspect any antenna to ensure compliance with the provisions of this section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which an antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.
 - (q) Replacement. When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated small wireless facility(ies), communications antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.
 - (r) Small wireless facilities spacing. Minimum spacing between small wireless facilities shall be 300 feet between wireless communications facility installations. Small wireless facilities shall not be located within 100 feet of an adjacent existing residence.
 - (s) Professional services agreement. A consultant professional services agreement, on a form provided by the Township, shall be signed by the applicant and submitted with any wireless communications facility, to cover all costs and expenses incurred by the Township for application and plan review and processing by its professional consultants. No application shall be deemed submitted until the signed consultant professional services agreement has been provided to the Township. No permit shall be issued until the applicant has fully reimbursed the Township for all costs and expenses incurred by the Township for application and plan review and processing by its professional consultants.
- (2) The following regulations shall apply to all communications antenna that DO NOT substantially change the wireless support structure to which they are attached:
- (a) Applicants for small wireless facility(ies) and applicants proposing the modification of an existing communications tower, in order to co-locate an antenna, shall obtain a permit from the Township Zoning Officer. In order to be considered for such permit, the Applicant must submit a permit application to the Township Zoning Officer.
 - (b) Permit fees. The Township may assess permit fees directly related to the Township's actual

costs in reviewing and processing the application and for overseeing and inspecting the antenna installation as well as future inspections, monitoring and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established thereunder.

(c) Timing of approval.

[1] Within 30 calendar days of receipt by the Township of an application for a communications antenna which does not substantially change the physical dimensions of the wireless support structure to which it is to be attached, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision of whether to approve the application, and shall advise the applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period.

[2] Within 10 calendar days of receipt by the Township of an application for small wireless facility(ies) which are to be collocated on existing wireless support structures, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision of whether to approve the application, and shall advise the applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period.

[3] Within 30 calendar days of receipt by the Township of an application for small wireless facility(ies) which proposes the construction of a new small wireless facility(ies) pole, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 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-day review period.

(3) The following regulations shall apply to all communications antenna that DO substantially change the wireless support structure to which they are attached:

(a) Permit required. An applicant proposing the substantial modification of an existing communications support structure shall first submit an application and obtain a zoning permit and a building permit from the Township.

(b) Permit fees. The Township may assess zoning and Building permit fees directly related to the Township's actual costs in reviewing and processing the application and for overseeing and inspecting the antenna installation and/or modification of the existing support structure, as well as future inspections, monitoring, and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established thereunder.

- (c) Timing of approval. Within 30 calendar days of the date that an application for a communications antenna is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a completed application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was required 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-day review period. The ninety-day period set forth herein is automatically modifiable as and when necessary to remain consistent with any applicable and controlling state or federal law or regulation.

E.D. Requirements for communications antenna outside the public right-of-way. The following additional regulations shall apply to all communications antenna located outside the public right-of-way:

- (1) Location. Communications antenna are permitted in the (CB) Commercial Business and (I) Industrial Zoning Districts. Communications antenna in such districts may only be mounted to an existing building, an existing utility pole, an existing communications support structure, or an existing public utility transmission pole or other structure.
 - (a) Whenever a communications tower, wireless support structure, communications antenna and/or accessory facilities and equipment is proposed to be located outside of the public right-of-way, a copy of an easement agreement from the property owner on whose property the facilities are to be located shall be provided as part of the application process.
- (2) Development regulations. Communications antenna shall be co-located on existing structures, such as existing buildings or communications support structures, whenever possible, subject to the following conditions:
 - (a) To the extent permissible by law, such antenna does not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying zoning district.
 - (b) If the antenna applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - (c) A security fence satisfactory to the Township of not less than 10 feet in height shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use. A lock box shall be provided for emergency access.
- (3) Design regulations.
 - (a) Communications antenna shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the antenna applicant shall be subject to the approval of the Board of Supervisors.
 - (b) The total height of any support structure and mounted antenna shall not exceed the maximum height permitted in the underlying Zoning District. To the extent permissible by law, the height of an antenna shall not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying zoning district.

- (c) In accordance with industry standards, all communications antenna applicants must submit documentation to the Township justifying the total height of the antenna structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (d) Noncommercial usage exemption. Township citizens utilizing satellite dishes, amateur radios, and antenna for the purpose of maintaining television, telephone, radio communications, and/or internet connections at their respective residences shall be exempt from these design regulations.
- (4) Removal; replacement; modification.
- (a) The removal and replacement of communications antenna and/or accessory equipment for the purpose of upgrading or repairing the antenna is permitted, so long as such repair or upgrade does not increase the overall size or number of antenna.
 - (b) Any material modification to a wireless communications facility shall require a prior amendment to the original permit or authorization.
 - (c) Replacement. When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated communications antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.

F.E. Requirements for communications antenna inside the public right-of-way. The following additional regulations shall apply to all communications antenna located in the public right-of-way:

- (1) Location.
- (a) Communications antenna shall be permitted in areas in which all utilities are located aboveground, regardless of the underlying zoning district, so long as such antenna are located on existing structures and/or utility poles in the ROW.
 - (b) With the approval of the Township, communications antenna may also be installed on Township property, such as, but not limited to, traffic signal poles, streetlight poles, mast arm devices, or other traffic control devices.
 - (c) Whenever communications antenna are installed on Township property, reasonable rental compensation shall be paid to the Township by the applicant or owner in accordance with the Township's annual fee schedule.
- (2) Co-location. Communications antenna in the ROW shall be co-located, whenever possible, on existing poles, such as existing utility poles, traffic light poles, or streetlight poles. If co-location is not technologically feasible, the applicant shall locate its communications antenna on existing utility poles, traffic signal poles, or streetlight poles that do not already act as communications support structures.
- (3) Design requirements.
- (a) Antenna 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 in height and that are compatible in scale and proportion to the structures upon which they are mounted.
 - (b) All accessory equipment shall be located underground unless the applicant demonstrates

to the satisfaction of the of the Township that to do so would not be technologically or economically feasible. In that case, all accessory equipment shall be the smallest and least visibly intrusive equipment available and regularly in use in the industry.

- (c) Accessory equipment that cannot be located underground shall be treated to match the supporting structure. Antenna and accessory equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted. Antenna must be located using stealth technology as approved by the Township. No more than four antenna may be placed on a pole.
- (4) Compensation for ROW use. In addition to permit fees described above, every communications antenna, and all accessory equipment located 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. The amount of 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 application reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each communications antenna shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW use fee for communications antenna shall be established by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW use and management costs as applied to such communications antenna.
- (5) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications antenna in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (6) Equipment location. Accessory equipment for communications antenna shall, whenever practical, be located underground. If the Township determines that doing so would not be technologically or economically feasible, given industry standards and norms, same shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW, as determined by the Township. In addition:
 - (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 36 inches of the exposed back of the curb or within an easement extending onto a privately owned lot.
 - (b) Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township, giving due concern and consideration to the safety of pedestrians, vehicular traffic, and the traveling public.
 - (c) Required electrical meter cabinets that cannot be located underground shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the support structure or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any plans for proposed underground installation of accessory equipment shall be reviewed

and approved in advance by the Township.

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

G.F. General requirements for all communications support structures. The following regulations shall apply to all communications support structures:

- (1) Standard of care. A communications support structure shall be designed, constructed, installed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any communications support structure shall at all times be kept and maintained in good condition, order and repair by qualified and trained maintenance, construction, and inspection personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (2) Permit required. An applicant proposing the construction of a new communications support structure or the modification to an existing communications support structure shall first submit an application and obtain a zoning permit and a building permit from the Township.
- (3) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application and for overseeing and inspecting the support structure installation and maintenance, as well as the future inspections, monitoring and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established under the WBCA.
- (4) Wind. A communications support 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 (ANSI/TIA-222-E, as amended).
- (5) Design. A communications support structure shall be designed to have the least practical adverse visual effect on the areas which can view it.
- (6) Height. A communications support structure shall be designed at the minimum functional height. All communications support structure applicants must submit documentation to the

Township justifying the total height of the structure. The maximum total height of any communications support structure, which is not located in the public ROW, shall not exceed 200 feet, as measured vertically from the ground level to the highest point on the structure, including antenna and subsequent alterations. Equipment buildings, cabinets and ground-mounted accessory structures shall not exceed 15 feet in height.

- (7) Accessory equipment. A telecommunication equipment building, equipment cabinet, or any other structure associated with a communications support structure, shall meet the height and setback requirements for principal buildings in the zoning district in which the building is located, except as otherwise noted in the Upper Frederick Township Zoning Ordinance.
- (8) Public safety communications. No communications support structure shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (9) Maintenance. The following maintenance requirements shall apply:
 - (a) Any communications support structure shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of Township residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (10) Radio frequency emissions. No communications support structure may, by itself or in conjunction with other wireless communications facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (11) Historic buildings or districts. No communications support structure may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.
- (12) Signs. All communications support structures shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
- (13) Lighting. No communications support structure shall be artificially lighted, except as required by law. Support structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Strobe lights are not to operate between sunset and sunrise.
- (14) Noise. Communications support structures shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and applicable Township ordinance guidelines, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (15) Aviation safety. Communications support structures shall comply with all federal and state laws

and regulations concerning aviation safety.

- (16) Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the support structure and, once approved, in overseeing and monitoring all installations and in reviewing and evaluating any potential violation of the terms and conditions of this section. The applicant and/or owner of the support structure shall reimburse the Township for all reasonable costs of said Township's consultants.
- (17) Timing of approval. Within 30 calendar days of the date that an application for a communications support structure is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. All applications for communications support structures shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such communications support structure, and the Township shall advise the applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.
- (18) Nonconforming uses. Nonconforming communications support structures 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. Co-location of antenna on existing nonconforming support structure is permitted.
- (19) Removal. In the event that use of a communications support structure is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned support structures or portions of support structures shall be removed as follows:
 - (a) All unused or abandoned communications support structures and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the support structure and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the support structure and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the support structure. If said owner fails to pay for the cost of removal within 30 days, the Township may proceed to recover its costs through any proceeding in law or equity against the owner of the support structure, or by lien on the property where the support structure was located, or by pursuing any other legal remedy available to the Township as authorized under the provisions of the Second Class Township Code⁶ or by any other applicable local, state, or federal law or regulation.
 - (c) Any unused portions of communications support structures, including antenna, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a communications support structure previously removed.
- (20) FCC license. Each person that owns or operates a communications support structure shall submit to the Township a copy of its current FCC license, including the name, address, and

3. Editor's Note: See 53 P.S. § 65101 et seq.

emergency telephone number for the operator of the facility.

- (21) Insurance. Each person that owns or operates a communications support structure greater than 50 feet in height shall provide the Township with a certificate of insurance, naming the Township as an additional insured, evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the communications support structure. Each person that owns or operates a communications support structure 50 feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each communications support structure.
- (22) Indemnification. Each person that owns or operates a communications support structure shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications support structure. Each person that owns or operates a communications support structure shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of communications support structure. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (23) Engineer's seal. All plans and drawings for a support structure shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania, certifying that the site and design shall be in strict compliance with all current and applicable federal and state technical and safety codes.

H.G. Requirements for support-structure-based facilities outside the right-of-way. The following additional regulations shall apply to support-structure-based wireless communications facilities located outside the right-of-way:

- (1) Development regulations:
 - (a) Location. No support structure shall be located in an area in which all utilities are underground, except as permitted by this section. The following additional regulations shall apply:
 - [1] Support structures are permitted in the (CB) Commercial Business District and (I) Industrial Zoning District.
 - [2] Support structures are permitted on Township and Township-owned property, including Township Fire Company property.
 - [3] Support structures shall not be placed within 100 feet of any area in which all utilities are underground.
 - (b) Gap in coverage. An applicant for a support structure 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 support structures.

- (c) Sole use on a lot. A support structure shall be permitted as a sole use on a lot, provided that the lot shall meet the minimum lot area of the district in which it is located.
- (d) Combined with another use. A support structure may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - [1] The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
 - [2] Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district, and shall be the area needed to accommodate the communications support structure and guy wires, the equipment building, security fence, and buffer planting if the proposed communications support structure is greater than 50 feet in height. If a security fence is put in place, a lock box shall be provided for emergency access.
 - [3] Minimum setbacks. The foundation and base of any communications support structure shall be set back from property lines in accordance with the minimum setbacks applicable to the zoning district where the property is located.
- (2) Setbacks. All parts of the communications support structure shall be set back a minimum of 100 feet from the property line on the larger parcel on which the leased parcel is located, plus one foot for each foot of height of support structure and antenna beyond 100 feet.
- (3) Notice. Upon submission of an application for a communications support structure, the applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The applicant shall provide proof of the notification to the Township.
- (4) Leased parcels. Copies of lease agreements and easements necessary to provide access to the buildings or structure for installation and placement of the equipment cabinet or equipment building shall be provided to the Township. Recording of a plat of subdivision shall not be required for the leased parcel on which the communications support structure is constructed, provided the equipment building is proposed to be unmanned, the required easement agreement for access is submitted for approval by the Township, and the equipment building is less than 1,000 square feet.
- (5) Co-location and siting. The applicant must demonstrate that the wireless communications equipment planned for the proposed communications support structure cannot be accommodated on an existing or approved structure or building, or on Township property. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and support structures in excess of 50 feet, within a 1/2 of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and support structures and was denied for one of the following reasons:
 - (a) The proposed antenna and related equipment would exceed the structural capacity of the existing building, structure or support structure, and its reinforcement cannot be accomplished at a reasonable cost.

- (b) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or support structure and the interference cannot be prevented at a reasonable cost.
 - (c) Such existing buildings, structures, or support structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) A commercially reasonable agreement could not be reached with the owner of such building or support structure.
- (6) Identification of nearby structures. Any application for approval of a communications support structure shall include a comprehensive inventory of all existing support structures and other suitable structures within a two-mile radius from the point of the proposed support structure, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing support structure or other suitable structure cannot be utilized.
- (7) Design regulations:
- (a) The communications support structure shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the communications support structure applicant shall be subject to the approval of the Township.
 - (b) Any height extensions to an existing communications support structure shall require prior approval of the Township. The Township reserves the right to deny such requests based upon lawful considerations related to the character of the Township.
 - (c) Any proposed communications support structure shall be designed structurally, electrically, and in all respects to accommodate both the communications support structure applicant's antenna and comparable antenna for future users.
 - (d) Any communications support structure over 50 feet in height shall be equipped with an anticleimbing device, as approved by the manufacturer.
- (8) Surrounding environs:
- (a) The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the communications support structure shall be preserved to the maximum extent possible.
 - (b) The applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the communications support structure, and anchors for guy wires, if used.
- (9) Fence/screen:
- (a) A security fence satisfactory to the Township having a minimum height of 10 feet shall completely surround any communications support structure greater than 50 feet in height, as well as guy wires, or any building housing communications support structure

equipment. If a security fence is used, a lock box shall be provided for emergency access.

- (b) Landscaping shall be installed to screen and buffer the support structure and any ground level features, such as an equipment building, from adjacent properties.
 - (c) A ten-foot-wide buffer yard consisting of dense evergreen hedge planted so that the leaves or needles will touch an adjacent plant at maturity around the perimeter of the security fence on the leased parcel. The buffer yard required in the applicable (CB) Commercial Business District or (I) Industrial Zoning District must be planted around the perimeter of the parcel from which the leased parcel is separated.
- (10) Accessory equipment:
- (a) Ground-mounted equipment associated to, or connected with, a communications support structure shall be screened from public view using stealth technologies, as described above.
 - (b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- (11) Additional antenna. As a condition of approval for all communications support structures, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antenna on communications support structures where technically and economically feasible. The owner of a communications support structure shall not install any additional antenna without obtaining the prior written approval of the Township.
- (12) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to communications support structure. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the communications support structure owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility. The access road shall be a minimum of 20 feet in width and shall be improved with a bituminous or concrete surface approved by the Township, for its entire length at a minimum of 12 feet in width.
- (13) Parking. For each communications support structure greater than 50 feet in height, there shall be two off-street parking spaces. Each parking space shall be improved with a dust-free, all-weather surface. Said parking spaces shall have minimum dimensions of 10 feet by 20 feet.
- (14) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications support structure for numerous factors, including, but not limited to, visual impact, design, and safety standards.
- (15) Inspection. The Township reserves the right to inspect any communications support structure to ensure compliance with the provisions of this section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a communications support structure is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (16) Engineer inspection report. The owner of any communications support structure greater than 50 feet in height shall submit to the Township proof of an annual inspection conducted by a

structural engineer at the owner's expense and an updated support structure maintenance program based on the results of the inspection. Any structural faults shall be corrected immediately and reinspected and certified to the Township by a structural engineer at the support structure owner's expense.

- (17) Land development plan. Township approval of a land development plan shall be required for all support structures in excess of 50 feet in height. All stormwater requirements are applicable.

H. Requirements for communications support structures inside the public right-of-way. The following additional regulations shall apply to any WCF support structure located in the right-of-way:

- (1) Location. The location of support structures is limited to the following rights-of-way:
- (a) An applicant must first attempt to site a proposed support structure along the following corridors, provided the proposed support structure is not situated within 100 feet of an area in which all utilities are underground:
- [1] Principal arterial roads:
- Pennsylvania Route 29; and
Pennsylvania Route 73
- (b) If the Township determines that it is not technologically or economically feasible to locate the proposed support structure along the corridors mentioned above, given industry standards and norms, the proposed support structure may be located along the roads listed below where utilities are aboveground, provided that the proposed support structure is not sited within 100 feet of an area in which utilities are underground.
- [1] Collector roads:
- [a] Major collector:
- Perkiomenville Road
Neiffer Road
- [b] Minor collector:
- Fagleysville Road
Hill Road
- [2] Local road:
- Little Road
- (c) No communications support structure sited in the public ROW shall be located in the front facade zone of any structure.
- (2) Gap in coverage. An applicant for a communications support structure must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable

area and that the type of communications support structure 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 communications support structures in the ROW.

- (3) Notice. Upon submission of an application for a communications support structure, the applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The applicant shall provide proof of the notification to the Township.
- (4) Co-location and siting. The applicant must demonstrate that the wireless communications equipment planned for the proposed communications support structure cannot be accommodated on an existing or approved structure or building, or on Township property. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and support structures within a 1/4 of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and support structures, and was denied for one of the following reasons:
 - (a) The proposed antenna and related equipment would exceed the structural capacity of the existing building or support structure, and its reinforcement cannot be accomplished at a reasonable cost.
 - (b) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building or support structure, and the interference cannot be prevented at a reasonable cost.
 - (c) Such existing buildings or support structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) A commercially reasonable agreement could not be reached with the owner of such building or support structure.
- (5) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications support structures in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (6) Equipment location. Communications support structures and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
 - (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - (b) Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.

- (d) Any graffiti on the support structure or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any plans for underground vaults related to communications support structures shall be reviewed and approved in advance by the Township.
- (7) Design regulations.
- (a) The communications support structure shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the communications support structure applicant shall be subject to the approval of the Township.
 - (b) Communications support structures in the public ROW shall not exceed 40 feet in height.
 - (c) Any height extensions to an existing communications support structure shall require prior approval of the Township, and shall not increase the overall height of the communications support structure to more than 40 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
 - (d) Any proposed communications support structure shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antenna and comparable antenna for future users.
- (8) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications support structure in the ROW for numerous factors, including but not limited to visual impact, design, and safety standards.
- (9) Additional antenna. As a condition of approval for all communications support structures in the ROW, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antenna on communications support structures where technically and economically feasible. The owner of a communications support structure shall not install any additional antenna without obtaining the prior written approval of the Township.
- (10) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a communications support structure in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications support structure when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (a) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (b) The operations of the Township or other governmental entity in the right-of-way;
 - (c) Vacation of a street or road or the release of a utility easement; or

- (d) An emergency as determined by the Township.
- (11) Compensation for ROW use. In addition to permit fees described above, every communications support structure and all accessory equipment located 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 application reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each communications support structure 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 use fee for communications support structures shall be established by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW use and management costs as applied to such communications support structure.

J.I. Miscellaneous.

- (1) Police powers. 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, state and local laws and regulations.
- (2) Violations and penalties. Any person who violates or permits a violation of this section of the chapter shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this section. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgement pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

K.J. Waiver provision. The Township Board of Supervisors may waive any siting standards set forth in this section where the applicant demonstrates that the strict enforcement of said standard:

- (1) Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. § 253(a); or
- (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(II); or
- (3) Will violate any requirement set forth in the FCC Order entitled, "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment." WT Docket No. 17-79, and WR Docket No. 17-84; or
- (4) Will prohibit, or have the effect of prohibiting, the ability of an entity to provide utility service to any prospective customer within the Township.

~~§ 285-68. Kennels.~~

~~Kennels, where specified as a permitted use in the district regulations, are subject to the following provisions:~~

~~A. A minimum lot size of five acres shall be provided.~~

- ~~B.— No animal shelter or run shall be permitted within 100 feet of any property line or 200 feet of any other dwelling.~~
- ~~C.— A total screen buffer shall be provided along property boundaries with residential uses, to control noise and odor.~~
- ~~D.— The total number of dogs per acre shall not exceed five per acre, not including dogs under six months old.~~

§ 285-69. Residential conversions.

The Zoning Hearing Board may grant a special exception for the conversion of any existing single family detached dwelling or its accessory structures into no more than two additional dwelling units, subject to the following restrictions:

- ~~A.— Minimum unit size. The minimum size of each existing or newly created dwelling unit shall be a minimum of 400 square feet plus 100 square feet for each bedroom. For example:~~

Number of Bedrooms in Unit	Minimum Square Footage Required-Per Unit
0 (Efficiency)	400
1	500
2	600

- ~~B.— Number of units permitted.

 - ~~(1)— Minimum lot size. In order to qualify for residential conversion, the existing dwelling unit must be located on a parcel with sufficient gross area to provide:

 - ~~(a)— The minimum lot size required for a single family dwelling in the zoning district where the dwelling is located; plus,~~
 - ~~(b)— Forty thousand square feet for each proposed conversion unit.~~~~
 - ~~(2)— Total units. Regardless of the size or number of existing dwelling units, the total number dwelling units on any one parcel after conversion shall not exceed three.~~
 - ~~(3)— Restriction from development. Within 30 days of having obtained a use and occupancy permit for any conversion unit(s), the applicant shall record with the Montgomery County Recorder of Deeds deed restrictions, easements or private covenants which shall be acceptable to the Township Solicitor for the purpose of permanently restricting from further subdivision or land development the land area required by Subsection B(1).~~~~
- ~~C.— Location. Conversion of an existing single family detached dwelling shall be a permitted use in any zoning district.~~
- ~~D.— General standards.

 - ~~(1)— There shall be no external alteration of the building except as may be necessary for reasons of safety or improved design for otherwise permitted units. Any alterations shall reflect the architectural character of the existing building. Fire escapes and outside stairways shall, where~~~~

~~practicable, be located to the rear of the building.~~

- (2) ~~Each dwelling unit shall have two direct means of access to the outdoors or to a hall which directly accesses the outdoors.~~
- (3) ~~The off street parking requirements of Article XIX must be met. All dwelling units shall share the existing driveway entrance(s) to the existing dwelling unit.~~
- (4) ~~All dwelling units shall be provided with smoke detectors and fire extinguishers. A dwelling unit located at or above the second story of a converted structure must have a fire escape.~~
- (5)(1) ~~If onsite sewage systems are to be used, the applicant must submit evidence to the Zoning Hearing Board showing that the total number of occupants in the converted dwelling unit will not exceed the capacities of the existing sewage systems. The Sewage Enforcement Officer shall review and approve any proposed expansion or addition of systems.~~

~~§ 285-70. Adult use standards and criteria.~~

The following standards and criteria shall govern adult uses as defined and permitted in this chapter:

- A. ~~7No adult use shall be considered to be a permissible change of use, in conformance with Article VI, Nonconforming Status, unless the subject property is located in a district where adult uses are permitted, and can be shown to comply with the regulations, standards and criteria of this section.~~
- B. ~~Adult uses shall be housed in completely enclosed buildings, designed and used in a manner which prevents the viewing of adult use activities or materials from outside the building. No exterior display of products, activities or shows shall be permitted, except for a sign which identifies the name of the establishment and its hours of operation, in conformance with the requirements of Article XX, Signs, of this chapter.~~
- C. ~~If any portion of a use meets the definition of "adult use," then that portion must comply with the requirements of this section.~~
- D. ~~A fifty foot screening buffer shall be provided along the side and rear lot lines, or when the property abuts residential or institutional uses, but with plantings of an initial minimum height of six feet. [Added 6-14-2007 by Ord. No. 2007-06]~~
- E. ~~The use shall not include the sale or display of obscene or other sexual materials, as defined by the Pennsylvania Crimes Code (18 Pa.C.S.A. § 5903), as amended, and interpreted by applicable court decisions. [Added 6-14-2007 by Ord. No. 2007-06]~~
- F. ~~For public health reasons, private or semiprivate viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers. [Added 6-14-2007 by Ord. No. 2007-06]~~

~~§ 285-71. Surface mining and quarrying.~~

- A. ~~Where permitted by district regulations, surface mining and quarrying shall be permitted only on sites of more than 25 acres.~~
- B. ~~No quarrying or mining activity shall take place with 500 feet of any property boundary.~~

4. ~~Editor's Note: Former Subsection A, which restricted the location of adult uses in relation to residences, parks, churches and schools, which immediately preceded this subsection, was repealed 3-8-2007 by Ord. No. 2007-04.~~

- ~~C. Mining and quarrying activities shall take place only between the hours of 7:00 a.m. and 7:00 p.m., and shall not take place on Sundays or legal holidays.~~
- ~~D. Trucks shall be covered when leaving the site, and shall not create dusty conditions beyond the boundaries of the subject property.~~
- ~~E. The perimeter of the property shall be sufficiently fenced to prevent entry of unauthorized personnel.~~
- ~~F. The mining or quarrying operation shall be surrounded by a vegetative buffer sufficient to provide year around screening from view from any public road.~~

~~§ 285-72. Heliports. [Amended 9-10-1998 by Ord. No. 98-5]~~

~~Heliports shall be permitted when authorized by the Board of Supervisors as a conditional use in the Rural Preservation, R-80, R-60, Commercial Business or I Industrial Districts, or at an airport licensed by the Federal Aviation Administration (FAA), only when licensed by the Pennsylvania Department of Transportation (PADOT), Bureau of Aviation, and otherwise in compliance with applicable federal regulations.~~

- ~~A. No portion of a heliport, including buildings, storage, maintenance and landing area, may be within 250 feet of a property line of a residentially or institutionally used property.~~
- ~~B. Appropriate fencing shall be provided by the applicant to restrict pedestrian and vehicular access to the heliport.~~
- ~~C. Development shall otherwise be in accordance with the requirements of the district in which the heliport is located.~~
- ~~D. A heliport may not be used unless a valid Township conditional use permit is in effect.
 - ~~(1) Helicopter, balloon, ultra-light or other aircraft landing or takeoff from nonheliport, nonairport or any other site without a valid conditional use permit may only be allowed when it is done:
 - ~~(a) With written approval of the Board of Supervisors.~~
 - ~~(b) In conjunction with a special event, such as an athletic contest, a holiday celebration, parade or similar activity, after reasonable advance notice has been given to the Township of the intention to do so.~~
 - ~~(c) On an occasional or infrequent basis from an unprepared site either as a business accessory use or as an industrial aid.~~
 - ~~(d) When necessary for law enforcement purposes or for medical emergencies.~~~~
 - ~~(2) The applicant shall apply to the Board of Supervisors for a tentative approval of the conditional use.~~
 - ~~(3) Following tentative approval, the applicant shall secure all necessary state and federal licenses and permits. The applicant may submit plans for land development approval for the heliport at the same time.~~
 - ~~(4) After securing all necessary state and federal licenses and permits, and receiving land development approval for the heliport plan, the Board of Supervisors will grant final approval to the conditional use application.~~~~

- ~~(5) When located in residential zoning districts, the site:~~
- ~~(a) Shall comply with the requirements herein applicable to sites in other zoning districts.~~
 - ~~(b) Shall be used only by executive type helicopters.~~
 - ~~(c) Shall be located not closer than 250 feet from the closest property line.~~
- ~~(6) The permit shall be renewable annually.~~
- ~~(7) The permit shall be automatically revoked:~~
- ~~(a) If the Bureau of Aviation, PADOT, revokes the heliport's license or refuses to relicense the heliport after one of its periodic inspections.~~
 - ~~(b) If the FAA withdraws or revokes its approval, if initially required.~~
 - ~~(c) Thirty days after the Zoning Officer has notified the permit holder in writing that the heliport is no longer in compliance with the Township's permit requirements, provided that the noncompliance has not been corrected within those 30 days.~~
- ~~(8) When the heliport's permit and/or license has been revoked, the operator shall close the by site publishing and posting notices to that effect, and employing such visual markers as are customary for this purpose.~~
- ~~(9) Other aircraft. Other aircraft such as balloons, ultra lights, etc., may take off and land only at properly licensed airports or heliports. Heliport use for these purposes shall be permitted only when authorized by the Board of Supervisors as a conditional use. The Board of Supervisors may limit the hours of operation and number of aircraft involved as part of their approval.~~
- ~~E. Any airport or heliport operations or landings or takeoffs not in compliance with these requirements shall be a violation of this chapter, subject to the enforcement remedies found in § 285-17, herein.~~

§ 285-7368. Traffic impact study. [Amended DATE by Ord. No. 2025-09]

- A. Intent. A traffic impact study is intended to enable the Township to assess the traffic impacts of a proposal. Specifically, its purpose is to:
- (1) Identify any traffic problems that may be created in the existing highway network as a result of the proposal.
 - (2) Delineate solutions to potential problems and to present improvements to be incorporated into the proposal or into the highway and/or public transit systems within the study area.
 - (3) Assist in the protection of air quality and the conservation of energy, and to encourage the use of public transit where available.
- B. Preparation of study. The traffic impact study shall be prepared in accordance with Section IIA of the Subdivision and Land Development Ordinance
- C. Applicability.
- (1) A traffic impact study shall be submitted with all requests for changes to the zoning map, special exception and conditional use where eight (8) or more dwelling units are being requested.
 - (2) An application which requires a traffic impact study shall not be considered complete until the traffic impact study is submitted to the appropriate review body in accordance with the provisions of this section.

~~§ 285-74. Additional dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-9-2001 by Ord. No. 01-1]~~

~~The following dimensional standards shall apply in all districts for the types of uses, structures, facilities and/or boundaries specified:~~

- ~~A. No farm building or other structure for the keeping or raising of livestock or poultry, for storing of farm or other products regardless of kind, or for storing of farm or other machinery shall be erected nearer than 100 feet to any right of way, to any public or private wells, on or off the subject property, or to any property line or lot line. In addition, a 50-foot setback shall be required from any dwelling unit.~~
- ~~B. All swimming pools or ponds shall be set back a minimum of 25 feet from any lot line or ultimate right-of-way line.~~
- ~~C. Unless specified otherwise, the following maximum height limitations shall apply:~~
- ~~(1) For any dwelling: 35 feet.~~
 - ~~(2) For any building accessory to a dwelling: 14 feet.~~
 - ~~(3) For barns, silos or other major agricultural buildings: 60 feet.~~
 - ~~(4) For any other nonresidential building or structure. Forty feet, except that such height may be increased, as a special exception, to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such unoccupied structures such as water towers, antennas, chimneys and steeples, provided that the minimum setback of the structure from ultimate rights of way, property lines and/or other structures shall be not less than the height of the tall structure, measured to its highest point.~~
- ~~D. Buildings or structures accessory to dwellings shall comply with the following setback standards:~~
- ~~(1) For uses identified in § 285-62B(2), (4), (5), (6), (7) and (11): [Amended 3-8-2007 by Ord. No. 2007-04]~~
 - ~~(a) For buildings with nonconforming setbacks, the front yard setback shall be equivalent to the line established by the front of the dwelling.~~
 - ~~(b) For lots which conform to the size requirements of the district in which they are located, the front yard setbacks shall be that of the underlying district.~~
 - ~~(c) Side and rear yards:~~
 - ~~[1] Rear yard: 10 feet minimum, except that:~~
 - ~~[a] If a structure has a total floor area of over 750 square feet, it shall meet the minimum rear yard for a principal building.~~
 - ~~[b] A detached structure that has a total floor area less than 250 square feet, and has a maximum overall height of 12 feet, shall have a minimum rear yard of three feet.~~
 - ~~[2] Side yard. The side yard setback shall be the minimum side yard for a principal building, or the actual side yard established by the existing principal building on the lot, whichever is less restrictive, except that a detached structure that has a total floor area less than 250 square feet, has a maximum overall height of 12 feet and is~~

~~accessory to a dwelling shall have a minimum side yard of three feet.~~

~~[3]—Setback between buildings. If an applicant proposes to have two accessory buildings that the total floor area added together would not comply with the setbacks of this section, or the total floor area added together exceed 1,200 square feet, then a five-foot minimum setback shall apply between each such accessory building and between the principal and each accessory building.~~

~~[4]—Setbacks for swimming pools: refer to Subsection B.~~

~~(2) For uses identified in § 285-62B(8) and (9) and any accessory use that requires a special exception, the standards of Subsection A, herein, shall apply.~~

~~§ 285-75.~~ 69 Flexible lotting subdivisions.

- A. All subdivisions using a flexible lotting concept, as defined in this chapter and regulated under the various residential districts, herein, shall divide the entire tract on which subdivision is proposed into the following categories:
- (1) Permitted lotting types including conventional, pre-neighborhood, neighborhood, estate and rural lots, in compliance with the dimensional and development requirements of the applicable district.
 - (2) Common open land/open space as defined and regulated in this chapter.
 - (3) Road and utility rights-of-way.
- B. Any proposed parcel which does not qualify under the criteria regulating Subsections A(1), (2) or (3), above, shall not be permitted.

~~§ 285-76. Elder cottages. [Added 11-14-1996 by Ord. No. 96-6]~~

~~The Zoning Hearing Board may grant a special exception for the installation and use of no more than one elder cottage on the same lot as an existing single family detached dwelling in every residential district subject to the following requirements:~~

- ~~A.—Minimum lot size. In order to qualify for installation of an elder cottage, the existing dwelling unit must be located on a lot of 85,000 square feet or larger.~~
- ~~B.—Occupancy.~~
- ~~(1)—At least one occupant of the elder cottage must be over 62 years of age or must be unable to live independently because of mental or physical illness or disability.~~
 - ~~(2)—At least one occupant of the principal residence and at least one occupant of the elder cottage must be related by blood, marriage or adoption.~~
 - ~~(3)—In no case shall there be more than two occupants of the elder cottage.~~
 - ~~(4)—The owner of the principal residence must live in one of the dwelling units on the lot.~~
- ~~C.—Size.~~
- ~~(1)—The minimum area of the unit shall be 280 square feet for one occupant and 400 square feet for~~

~~two occupants.~~

~~(2) The maximum area of the unit shall be 900 square feet.~~

~~(3) The maximum height of the unit shall be 16 feet or one story.~~

~~D. Setbacks. The elder cottage shall meet a minimum setback of 25 feet from the side and rear lot lines.~~

~~E. Location. The elder cottage shall be placed in the side or rear yard of the lot no less than 15 feet from the principal residence on the lot. In no case shall the elder cottage be placed in the front yard of the lot.~~

~~F. Lot coverage. The total building coverage and impervious surface coverage shall not exceed the maximum requirements for the zoning district in which the elder cottage is located. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~G. Parking. At least one off-street all-weather parking space shall be provided for the elder cottage in addition to that required for the principal dwelling. However, no new driveway shall be permitted for the elder cottage.~~

~~H. Utilities:~~

~~(1) For sewage disposal, water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used.~~

~~(2) If the utility systems are not to be expanded, the applicant shall provide evidence to the Zoning Hearing Board showing that the utility systems are designed to accommodate the total number of occupants of both units.~~

~~(3) If the utility systems are to be expanded, expansion approvals are to be submitted.~~

~~(4) All connections and additions to existing onsite sewer systems are subject to the review and approval of the Sewage Enforcement Officer.~~

~~(5) The applicant shall provide the Township with a performance bond of an amount set by resolution of the Board of Supervisors to ensure adequate sewage disposal and potable water supply. In the event that there is a sewage failure and there is no repair within 30 days after notice by the Township, the use of the elder cottage will be discontinued immediately.~~

~~I. Temporary nature.~~

~~(1) The elder cottage must be removed from the lot and the lot must be restored to its original conditions within 90 days after the elder cottage is no longer a legally permitted use.~~

~~(2) The applicant shall provide the Township with a performance bond in an amount set by resolution of the Board of Supervisors to be used by the Township to remove the unit if the applicant fails to do so within the time frame set forth above.~~

~~(3) If the Township is forced to remove the unit, then the Township retains the right to sell the elder cottage unit and to expend any sums generated by such sale.~~

~~(4) The elder cottage shall be placed on a temporary foundation of easily removable materials so that the lot may be restored to its original use after removal, with as little expense as possible.~~

~~(5) No permanent fencing, walls or other structures (such as a breezeway between the primary residence and the elder cottage) that might impede removal of the elder cottage shall be installed on the single family lot.~~

~~J. Application procedures. Applicants wishing to install an elder cottage on their property must submit an application for special exception to the Zoning Hearing Board, which shall include the information required by Article IV of this chapter the following:~~

~~(1) A site development plan at a scale not less than one inch equals 20 feet that shows the following information:~~

~~(a) The property boundary lines.~~

~~(b) The location of the existing principal dwelling, existing accessory buildings and the proposed elder cottage.~~

~~(c) Minimum set back lines as specified in the zoning district in which the elder cottage is proposed.~~

~~(d) Dimensions from the property boundary lines and all existing buildings to the proposed elder cottage.~~

~~(e) Lot area.~~

~~(f) Total square footage of the proposed elder cottage.~~

~~(g) Total building and impervious surface coverage for all existing buildings and the proposed elder cottage. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~(h) The location, size and extent of all underground utilities and the connection of these utilities to the proposed elder cottage.~~

~~(i) Existing right of way and easements within the property boundary lines.~~

~~(j) The location of the boundary of the Floodplain Conservation District, slopes in excess of 15%, wetlands or other natural features that may affect the location of the elder cottage or its parking area.~~

~~K. Permit. Applicants wishing to install an elder cottage on their property must obtain a permit from the Township to operate such a use. Each permit will expire on December 31 of each year and may only be renewed by making application for a new permit. The annual fee for the elder cottage use permit shall be set by resolution of the Board of Supervisors. Each permit application shall be accompanied by a certificate, in the form of an affidavit, verifying that:~~

~~(1) The occupant of the principal dwelling will reside in either the principal dwelling or the elder cottage for as long as both units exist on the property.~~

~~(2) At least one occupant of the elder cottage is either over 62 years of age or is unable to live independently because of mental or physical illness or disability. If the occupant of the elder cottage is unable to live independently because of mental or physical illness and is under 62 years of age, then the applicant shall provide a certificate of disability from a medical doctor.~~

~~(3) At least one occupant of the principal residence and at least one occupant of the elder cottage is related by blood, marriage or adoption.~~

~~(4) The owner of the principal residence agrees that the elder cottage shall be removed from the property within 90 days after it is no longer occupied by a person who qualifies for the use and occupancy permit.~~

~~(5) The owner of the principal residence agrees that the Township may remove the unit and sell it to defray its costs if the unit is not removed within 90 days after the elder cottage ceases to be a legal use.~~

~~L. Additional installation requirements.~~

~~(1) Foundation. The elder cottage shall be placed on a temporary foundation including, but not limited to, pressure treated timbers or piers of concrete block.~~

~~(2) Anchoring. The elder cottage shall be physically anchored to the ground via an anchoring system designed to resist a minimum wind velocity of 90 miles per hour.~~

~~(3) Skirts. All elder cottages shall have skirts installed for the purpose of screening the underside of manufactured homes by forming an extension of the vertical exterior walls of the home and covering the entire distance between the bottom of the exterior walls and the ground elevation below. The skirts must complement the appearance of the elder cottage and must be compatible with the single family home unless the foundation of the elder cottage fulfills the same purpose.~~

~~(4) Hitch. The hitch or tow bar attached to an elder cottage for transport purposes must be removed.~~

~~§ 285-77. Tattoo parlors. [Added 3-8-2007 by Ord. No. 2007-04]~~

~~A. Tattoo parlors and related businesses shall comply with all applicable state and county regulations.~~

~~B. No tattoo parlor or related business shall be considered to be a permissible change of use, in conformance with Article VI, Nonconforming Status, unless the subject property is located in a district where tattoo parlors are permitted, and can be shown to comply with the regulations, standards and criteria of this section.~~

~~§ 285-77.170 through § 285-77 (reserved). Potential inability to develop to maximum density. [Added 1-14-2010 by Ord. No. 2010-01]~~

~~There is no guarantee that a parcel of land can be developed to the maximum density, and the physical constraints of a development, a landowner's choice of dwelling style/footprint, or other factors may limit the landowner's ability to develop the maximum number of dwelling units permitted by the maximum density calculation. A development plan of a landowner shall still be required to comply with all applicable minimum requirements of the Zoning District in which the property is located.~~

~~§ 285-77.2. Commercial solar energy systems. [Added 7-18-2019 by Ord. No. 2019-01]~~

~~All commercial solar energy systems installed, operated and/or modified within the Township after the effective date of this section shall comply with the following provisions, as applicable:~~

~~A. The design, installation, operation and maintenance of commercial solar energy systems shall conform to all applicable federal, state and Township construction, electrical and safety industry standards, including, but not limited to, the International Fire Code, the National Electrical Code, the Pennsylvania Uniform Construction Code, Act 45 of 1999,⁸ as amended, and its accompanying~~

~~5. Editor's Note: See 35 P.S. §§ 7210.101 through 7210.1103.~~

~~regulations, and the Public Utility Commission's interconnection rules and regulations.~~

- ~~B.—Such use shall have a minimum lot size of five acres, and a maximum of 20 acres.~~
- ~~C.—All on site electrical distribution lines shall be placed underground, to the extent possible.~~
- ~~D.—Commercial solar energy systems shall comply with the setback regulations of the underlying zoning district.~~
- ~~E.—No part of a ground mounted commercial solar energy system or its support structures shall exceed a height of 20 feet.~~
- ~~F.—The area of any ground mounted commercial solar energy system shall be considered impervious material and calculated as part of the lot coverage as established by the underlying zoning district and as regulated by the Upper Frederick Township Stormwater Management Ordinance.⁹ The area of lot coverage attributable to a commercial solar energy system shall be measured as the entire area of the system (e.g., width X length) in a horizontal plane projected vertically upon the ground. Such coverage may be less than the actual surface area of the system due to slanted or angled installation.~~
- ~~G.—Ground mounted commercial solar energy systems shall not be placed within any legal easement or right of way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.~~
- ~~H.—For all commercial solar energy systems mounted on a pitched roof, there shall be provided a two-foot minimum setback from the roof ridge line for the roof mounted solar modules to allow space for firefighters to penetrate the roof to create ventilation.~~
- ~~I.—For all commercial solar energy systems mounted on a flat roof, a three foot setback for a minimum of two roof edges shall be provided for roof mounted solar panels to ensure that firefighters may access the roof in a quick and safe manner.~~
- ~~J.—All mechanical equipment of commercial solar energy systems, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight foot high fence with a self locking gate, and provided with screening in accordance with the landscaping and screening provisions of the Code of the Township of Upper Frederick.~~
- ~~K.—A clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.~~
- ~~L.—Commercial solar energy systems mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.~~
- ~~M.—Commercial solar energy systems shall be located on a lot or parcel in a manner that ensures solar access without reliance on adjacent properties. If solar access from adjacent properties is required, the applicant shall submit documentation of adjacent property owner(s) agreement to the Zoning Officer using a solar easement.~~
- ~~N.—Commercial solar energy systems shall be located on a building, lot or parcel in a manner that does not direct concentrated solar radiation or glare onto any neighboring property or public way.~~
- ~~O.—Commercial solar energy systems shall not be used to display advertising of any type, and may only~~

6.—Editor's Note: See Ch. 228, Stormwater Management.

~~display signage when consistent with this chapter and when said signage identifies the manufacturer and/or installer, or provides warning statements.~~

- ~~P.—A commercial solar energy system, and all materials, structures and accessory equipment installed with that system, that has not been in use for commercial generation purposes for six months shall be removed completely within 90 days of the issuance of an enforcement action. The Township may require evidence of energy production upon request. Upon removal, the site shall be cleaned, restored and revegetated to blend with the existing surrounding vegetation, and to prevent soil erosion and downgradient sedimentation. If a commercial solar energy system remains nonfunctional or inoperative for a continuous period of one year, and has not been removed, the system may be deemed to be abandoned, and may constitute a public nuisance as determined by the Township Zoning Officer.~~
- ~~Q.—A commercial solar energy system owner shall post a bond or other financial security in a form acceptable to the Township at the time of zoning approval to cover the cost of equipment removal. Any and all additional or unanticipated costs of the system removal, including the full cost in the event the bond has expired or is insufficient, shall be the responsibility of the owner of the solar system.~~
- ~~R.—As a condition of approval for any commercial solar energy system project, the applicant/owner must:~~
- ~~(1)—Obtain land development approval for the installation.~~
 - ~~(2)—Provide proof that it has secured all necessary interconnections, land acquisitions, and/or easements necessary to undertake and complete the project.~~
 - ~~(3)—Replace any trees in kind that are removed in order to make way for any component of the commercial solar energy system.~~

ARTICLE VIII
Establishment of Districts

§ 285-78. Establishment of zoning districts. [Amended 9-10-1998 by Ord. No. 98-5; 12-8-2005 by Ord. No. 05-09]

- A. For the purposes of this chapter, Upper Frederick Township is hereby divided into zoning districts which are designated as follows:
- (1) RP - Rural Preservation District.
 - (2) R-80 Land Preservation District.
 - (3) R-60 Medium Density Residential District.
 - (4) R-40 High Density Residential District.
 - (5) IR Institutional and Recreational District (Overlay).
 - (6) CB - Commercial Business District.
 - (7) I - Industrial District.
 - (8) SS - Steep Slope Conservation District (Overlay).
 - (9) FP - Floodplain Conservation District (Overlay).
 - (10) Riparian Corridor Conservation District (RCC). **[Added 9-10-2009 by Ord. No. 2009-07]**
- B. The locations and boundaries of these districts are shown on the Upper Frederick Township Zoning Map which is hereby made a part of this chapter. The Zoning Map and all the notations, references and other data thereon shall be as much a part of this chapter as if fully described herein.
- (1) The designation of LI - Light Industrial District on the Township Zoning Map shall be changed to I - Industrial District.

§ 285-79. District boundaries.

District boundaries are shown on the Zoning Map to follow one or more of the following:

- A. Center lines of streets, lanes, utility company rights-of-way and railroad rights-of-way.
- B. Property lines.
- C. Municipal boundary lines.
- D. Where uncertainty exists as to the location of any district boundary line, the Zoning Officer shall determine its exact location guided by the following:
 - (1) Lines which appear to follow center lines, property lines or municipal boundary lines shall be construed to follow those lines.
 - (2) For questions concerning which particular property line a district boundary line follows, the Zoning Officer shall confer with the Township Planning Commission for a determination.

§ 285-80. Federal and state owned property.

Whenever federal or state-owned property is included in one or more zoning districts, it shall be subject to the provisions of this chapter only insofar as permitted by the Constitution and laws of the United States of America and of the Commonwealth of Pennsylvania.

§ 285-81. Exemption with certificate of public convenience.

In accordance with § 619 of the Pennsylvania Municipalities Planning Code, as amended, the provisions of this chapter shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the 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.

ARTICLE IX
RP - Rural Preservation District

§ 285-82. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to maintain the rural character of certain portions of the Township, and promote the preservation of land and waterways which because of location or natural features have a unique character by:

- A. Minimizing the amount of new urban or suburban development which occurs in the portions of the Township that are now rural in character, and to blend that which does occur unobtrusively into the rural environment.
- B. Discouraging the location of nonrural uses which do not blend with and complement the rural character.
- C. Maintaining a sufficiently low density and intensity of uses here to make unnecessary the provision of suburban-type improvements, services, facilities and infrastructure.
- D. Avoiding inducement to further extend existing suburban development by leapfrog or infill development.
- E. Preserving from development natural amenities including prime agricultural soils and farms, woodlands, floodplains, steep slopes, stream valleys and rock outcrops.
- F. Encouraging retention of woodlands, hedgerows, and other vegetation to moderate the effects of storms, absorb pollutants and noise, shelter wildlife and provide a diverse natural environment.
- G. Maintaining rural vistas, especially from public areas such as roads and waterways.
- H. Locating housing units and other nonrural uses where they are least visible and hidden by topography or vegetation and thus minimize perceived density.

§ 285-83. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04]

A building may be erected, altered or used, and a lot may be used or occupied ~~for the following purposes and no other or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66.~~

A. Uses permitted by right.

- (1) Single-family detached dwelling (see § 285-64.B.), provided that a complete environmental and visual inventory of the site has been submitted in accordance with § 285-90.
- (2) Agriculture (see § 285-65).
- (3) Recreation and Entertainment, Outdoor (see § 285-66.P.)
- (4) Wireless Communications Facilities (see § 285-66.V.)

B. Accessory uses permitted by right.

- (1) Elder Cottage (see § 285-63.B.)

(2) Accessory Structures, Nonresidential (see § 285-63.C.)

(3) Accessory Structures, Residential (see § 285-63.D.)

(4) Home-Based Business, Minor (see § 285-63.G.)

(5) Home-Based Business, No-Impact (see § 285-63.H.)

(6) Noncommercial Antennas and Satellite Dishes (see § 285-63.I.)

(7) Solar Energy Systems, Ground Mounted (see § 285-63.J.)

(8) Solar Energy Systems, Roof Mounted (see § 285-63.K.)

C. The following uses are permitted where authorized by approval of Conditional Use by the Board of Supervisors, in compliance with § 285-61, herein:

(1) Accessory Dwelling Unit (see § 285-63.A.)

(+)(2) Plant Nursery and/or Greenhouse (see § 285-66.N.)

~~A. Single family detached dwelling, using conventional lotting under the standards contained in § 285-85, herein, or under the standards of the Land Preservation District (LPD) when applied as an overlay in compliance with § 285-86, herein.~~

~~B. Agriculture.~~

~~C. Accessory uses, in compliance with § 285-62 of this chapter.~~

~~D. Natural open space uses of a passive nature and conducted out of doors, including wildlife sanctuary, forest preserve, nature center, arboretum, hiking, bicycling or bridle trails.~~

~~E. Game farm, fish hatchery or similar uses designed for the protection or propagation of wildlife.~~

~~F. Wholesale plant nurseries.~~

~~G. Signs in conformance with Article XX.~~

~~H. Cellular communication tower, subject to the provisions of § 285-67C.~~

~~I. No impact, home-based business.~~

~~J. Commercial solar energy system by conditional use, pursuant to § 285-77.2.~~

~~[Added 7-18-2019 by Ord. No. 2019-01]~~

~~K. Commercial solar energy system as a matter of right on property owned by Upper Frederick Township.~~

~~[Added 7-18-2019 by Ord. No. 2019-01]~~

~~§ 285-84 Special exception uses.~~

D. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-8786, herein:

(2)(1) Bed and Breakfast Home (see § 285-63.E.)

~~A. Swimming club, day camp, resident camp, tennis court, golf course, country club and other recreational facility of an outdoor nature, whether open to the public or restricted to private membership.~~

~~B. Equine riding academy or boarding stable.~~

~~C. Outdoor meeting place for cultural or artistic endeavors such as concerts or exhibitions.~~

~~D. Wholesale greenhouses.~~

§ 285-8584. Dimensional standards for conventional lotting.

Conventional lotting in this district shall be subject to the following standards:

- A. Minimum lot size: 217,800 square feet (five acres) gross lot area; 80,000 square feet net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- B. Minimum width at front building line: 300 feet.
- C. Minimum front yard: 100 feet.
- D. Minimum side yard: each 50 feet.
- E. Minimum rear yard: 100 feet.
- F. Maximum building coverage: 7%.
- G. Maximum height.
 - (1) For any dwelling: 35 feet.
 - (2) For any building accessory in any dwelling use: 14 feet, not exceeding one story.
 - (3) For any nonresidential building or other structure: 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.
- H. Flag lots are permitted for tracts of land with a minimum size of 30 acres, if such lots exist at the time of the adoption of this subsection, and meet the dimensional requirements of this chapter, and the standards outlined in § 285-50. **[Added 3-8-2007 by Ord. No. 2007-04]**

§ 285-856. Inventory, analysis and optional sketch plan.

Applicants for all proposals shall conduct an inventory and analysis of the site and are encouraged to submit optional sketch plans for informal review, in compliance with § 285-90 of the R-80 Land Preservation District of this chapter.

Standards for LPD lotting. [Amended 8-14-2003 by Ord. No. 03-04]

~~Land in the RP District may be subdivided in accord with the standards contained in Article X, Land Preservation District, of this chapter, with the exception that the following requirements shall supersede the LPD standards in the Rural Preservation District.~~

~~A. Single family detached dwellings shall be permitted by right at a maximum density of one dwelling unit per five acres of net lot area, as neighborhood lotting, otherwise in compliance with §§ 285-91 and 285-94. **[Amended 1-14-2010 by Ord. No. 2010-01]**~~

~~B. For nonneighborhood lots taking access from an existing road external to the subdivision, minimum dimensions shall be those of § 285-85, herein.~~

~~C. The following LPD standards do not apply to LPD development in the RP District:~~

~~(1) Section 285-89A and B, Permitted uses.~~

~~(2) Section 285-96, Conditional use standards and criteria.~~

~~(3) Section 285-98, Preneighborhood lotting standards and criteria.~~

~~(4) Section 285-99, Rural lotting standards.~~

§ 285-~~87~~86. Special exception standards.

Applications for uses permitted by special exception ~~in~~ pursuant to § 285-~~84-83~~ must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils, and similar environmentally sensitive areas and shall be planned to minimize perceived density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing rural road system shall be capable of accommodating peak traffic generated by the facility in a safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the rural character of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its rural surroundings, or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage shall not exceed 10% of the gross tract acreage.
- G. Paving coverage shall not exceed 10% of the gross tract acreage.

§ 285-87 (reserved)

ARTICLE X
R-80 Land Preservation District

§ 285-88. Declaration of legislative intent. [\[Amended 4-9-2025 by Ord. 2025-06\]](#)

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, the primary purpose of the R-80 Land Preservation District (LPD) is to preserve open land, sensitive natural areas, and rural community character. Specific objectives are as follows:

- A. To preserve open land, including those areas containing unique and sensitive natural feature such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development.
- B. To preserve scenic views and elements of the Township's rural character, and to minimize density.
- C. To implement the goals of the Township's comprehensive plan and open space/recreation plan.
- D. To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
- E. To create new woodlands through natural succession and reforestation where appropriate, and to encourage the preservation and improvement of habitat for various forms of wildlife.
- F. To preserve areas of the Township with productive agricultural soils for continued or future agricultural use, by preserving blocks of land large enough to allow for efficient farm operations.
- G. To provide for the preservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreation use by residents.

§ 285-89. Permitted uses. [\[Amended 7-8-1993 by Ord. No. 93-1; 11-14-1996 by Ord. No. 96-6; 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04; 4-9-2025 by Ord. 2025-06\]](#)

Land in the R-80 Land Preservation District may be used for the following purposes: A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66. Uses permitted by right.

A. Uses permitted by right.

- (1) Single-family detached dwelling (see § 285-64.B.) on tracts of less than 10 acres in size existing as of the date of adoption of this chapter.
- (2) Agriculture (see § 285-65).
- (3) Plant Nursery and/or Greenhouse (see § 285-66.N.)
- (4) Recreation and Entertainment, Outdoor (see § 285-66.P.)
- (5) Wireless Communications Facilities (see § 285-66.V.)

B. Accessory uses permitted by right.

- (1) Elder Cottage (see § 285-63.B.)
- (2) Accessory Structures, Nonresidential (see § 285-63.C.)

- (3) Accessory Structures, Residential (see § 285-63.D.)
- (4) Home-Based Business, Minor (see § 285-63.G.)
- (5) Home-Based Business, No-Impact (see § 285-63.H.)
- (6) Noncommercial Antennas and Satellite Dishes (see § 285-63.I.)
- (7) Solar Energy Systems, Ground Mounted (see § 285-63.J.)
- (8) Solar Energy Systems, Roof Mounted (see § 285-63.K.)

B. The following uses are permitted where authorized by approval of Conditional Use by the Board of Supervisors, in compliance with § 285-61, herein:

- (1) Accessory Dwelling Unit (see § 285-63.A.)
- (2) Single-family detached dwelling (see § 285-64.B.) on tracts of 10 acres or more in size existing as of the date of adoption of this chapter. See: § 285-96.
- (3) Artisanal Production or Retail Manufacturing (see § 285-66.B.)
- (4) Library, Museum, or Community Center (see § 285-66.I.)
- (5) Place of Worship (see § 285-66.M.)
- (6) Plant Nursery and/or Greenhouse (see § 285-66.N.)

C. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

- (1) Bed and Breakfast Home (see § 285-63.E.)
- (2) Family Child Care Home (see § 285-63.F.)
- (3) Mobile Home Park (see § 285-64.F.)

~~B.—~~

~~A.—Residential development and related open land.~~

- ~~(1) Single family detached dwellings shall be permitted at a maximum density of one dwelling unit per two acres of net lot area. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~B.—Rural lotting. Tracts of 60 acres or more may be subdivided into rural lots of a minimum of 30 acres each, in compliance with the rural lotting standards found in § 285-99, herein, for the following purposes:~~

- ~~(1) Agricultural activities of the following types:

 - ~~(a) The cultivation, harvesting and sale of crops and related farm products.~~
 - ~~(b) The raising and sale of livestock or flow, along with associated pasture and grazing land.~~
 - ~~(c) Orchards, nurseries, greenhouses and related horticultural uses.~~~~
- ~~(2) Single family detached dwellings, one per rural lot.~~
- ~~(3) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center and similar uses.~~

~~(4) Game farm, fish hatchery, hunting or fishing preserve; or similar uses designed for the protection or propagation of wildlife.~~

~~(5) Parks and recreation areas in compliance with the standards and criteria of Article XIV, Institutional and Recreational District, when approved by the Board of Supervisors in compliance with § 285-123 of Article XIV.~~

~~C. Agriculture.~~

~~D. Accessory uses. Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use, in compliance with § 285-62, Accessory uses, of this chapter.~~

~~E. Elder cottages, as defined herein, are only permitted by special exception, subject to the regulations contained in § 285-76 of this chapter.~~

~~F. Cellular communication tower, subject to the provisions of § 285-67C.~~

~~G. No impact, home-based business.~~

§ 285-90. Inventory, analysis and optional ~~and required~~ sketch plans.

The initial formal application for any subdivision shall include an inventory and analysis of the site, which shall be compiled into a written report complete with graphics, photographs, and other supporting information. The following site elements shall be inventoried and mapped in sufficient detail to allow evaluation of the plan relative to the intent of this district. Where a conflict occurs between these standards and those of Chapter 240, Subdivision and Land Development, the stricter requirement shall prevail.

- A. Physical resources. Identification of resources associated with the natural environment of the tract, including geology, topography, soils, hydrology and vegetation. These features shall be mapped at a scale of not less than one inch equals 100 feet, and shall be briefly described. The maps shall include:
- (1) Topographic contours at ten-foot intervals, showing rock outcrops and slopes of more than 15%, in compliance with the Steep Slope Conservation District, Article XV, of this chapter. Applicants are encourage to use two-foot contours drawn from aerial photographic sources because of their increased accuracy and practicality.
 - (2) Soil type locations and a table identifying soil characteristics relating to agricultural capability, seasonal high water table, depth to bedrock and suitability for onsite disposal systems, as per the Montgomery County Soil Survey.
 - (3) Hydrologic characteristics of the site, including surface water bodies, floodplains and hydric soils. If a wetlands survey is not provided initially, it shall be provided as part of the preliminary plan submission.
 - (4) Vegetation of the site, defining location and boundaries of woodland areas and vegetation associations in terms of species and size.
- B. Land use. Current land use and land cover (cultivated areas, paved areas, pastures, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
- C. Visual resources. Scenic views onto the tract from surrounding roads and public areas, as well as view of scenic features from within the tract.
- D. Cultural and historic resources. Brief description of historic and cultural character of buildings, and structures, if applicable.

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- E. Context. General outlines of buildings, land use and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of not less than one inch equals 400 feet.
- F. Optional sketch plan. The applicant is strongly urged but not required to submit a sketch plan based on the inventory and analysis for any development in the land preservation district, in order to resolve design issues before investing in engineered preliminary plans.

~~G. Required sketch plan. A sketch plan for ultimate development shall be submitted and approved prior to phasing of preliminary or final plans in accord with § 285-97, herein.~~

§ 285-91, -92, and -93 RESERVED

§ 285-94. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-14-2003 by Ord. No. 03-04]

All development and use of land within the R-80 Land Preservation District, ~~except rural lotting,~~ shall comply with the applicable requirements of this section.

~~A. Single family detached dwellings.~~

~~(1) Single family detached dwellings in compliance with § 285-89A(1): [Amended 1-14-2010 by Ord. No. 2010-01]~~

	<u>Conventional Requirement</u>
Minimum tract size	—
Minimum common open space land (% of gross lot area)	—
Maximum density (based on net lot acreage)	1 DU/2 acres
Minimum lot size	80,000 square feet
Maximum lot size	—
Minimum lot width	200 feet
Minimum front yard	200 feet
Minimum side yard	40 feet each
Minimum rear yard	60 feet
Maximum building coverage (% of net lot area)	5%

~~(2) For conventional lotting, the installation of sidewalks along roads external to the site may be waived by the Board of Supervisors when the applicant provides an easement 50 feet wide along the street's ultimate right of way for trail, path or walkway use.~~

§ 285-95. Sewage and water facilities.

A. Water supply.

- (1) Dwellings on lots of 40,000 square feet or more may be served by individual onlot wells.

~~B.~~ Sewage disposal.

~~C.B. Dwellings on lots of less than 80,000 square feet shall be served by centralized, common or shared sewage disposal systems.~~

All sewage disposal shall conform to the Townships Official Sewage Facilities Plan (Act 537), as amended, and may include the following alternatives:

- (1) Public sewers where available.
- (2) Individual onlot systems, employing subsurface disposal or spray irrigation on open land.
- (3) Centralized, community or shared systems employing subsurface disposal or spray irrigation on open land or stream discharge.

§ 285-96. Conditional use standards and criteria for conventional lotting. [Amended 7-8-1993 by Ord. No. 93-1]

In order to use conventional lotting on tracts of 10 acres or more for single-family detached dwellings with no common open land, ~~in compliance with § 285-89A(1)(a)[2], herein,~~ the applicant must demonstrate to the satisfaction of the Board of Supervisors, conformance with the following standards and criteria:

- A. Where the property is wholly or partially in agricultural use, that the property is not feasible for continued or future agricultural use due to its physical characteristics. Existing features such as soil conditions, rock outcroppings, wooded areas, the tract's shape or size, past farming activities, and suitability for efficient use of farm machinery shall be considered.
- B. The proposed development will not have a disruptive effect on the existing topography, floodplains, wetlands, mature woodlands or other natural features on the site.
- C. A complete environmental and visual inventory of the site has been submitted, as specified in § 285-90, herein.
- D. The proposed development shall be consistent with good design principles and land development practices. Specifically, it shall be designed to minimize view of dwellings from exterior roads and to avoid "stripping out" of lots along these roads. Minimum building setback lines from the external road ultimate right-of-way and other tract boundaries shall be as required in § 285-94~~C(1) and (2)~~, herein.
- E. The tract in question can be developed in a manner consistent with community goals as expressed in the [Upper Frederick Township Comprehensive Plan](#); [Upper Frederick Township Recreation, Park Open Space Plan](#); and the [Central Perkiomen Valley Regional Comprehensive Plan](#).

§ 285-97, -98, and -99 RESERVED

§ 285-100. Flag lotting requirements. [Added 4-13-2000 by Ord. No. 00-1; amended 3-8-2007 by Ord. No. 2007-04]

Flag lots are permitted for tracts of land existing at the time of the adoption of this section, which meet the dimensional requirements of this chapter, and the standards outlined in § 285-50.

ARTICLE XI

R-60 Medium Density Residential District**§ 285-101. Declaration of legislative intent.**

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Allow for a transition of residential densities from higher densities within and immediately abutting the Villages of Frederick and Obelisk to rural densities in other areas of the Township.
- B. Allow concentration of dwelling units at a density that would permit efficient future provision of community or central water supply and sewage disposal.
- C. Permit conventional lotting at reasonable standards where central water supply and sewage disposal are not available.
- D. Require the preservation of natural features, farmland or other open space when central water supply and sewage disposal are available or provided to a subdivision.
- E. Provide density and dimensional standards that provide for flexibility in site design, preservation of open space, and the appearance of a lower intensity of development than would be expected in more intense districts such as R-40, CB and LI.
- F. To provide density incentives for the use of development rights transferred pursuant to Article XXV. **[Added 5-12-2011 by Ord. No. 2011-02]**

§ 285-102. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04]

A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66. Uses permitted by right.

A. Uses permitted by right.

- (1) Single-Family Detached Dwelling (see § 285-64.B.), including the alternative types of village houses and lot line dwellings when in compliance with § 285-104A and B, herein
- (2) Single-Family Semi-Detached Dwelling (see § 285-64.C.)
- (3) Agriculture (see § 285-65).
- (4) Plant Nursery and/or Greenhouse (see § 285-66.N.)
- (5) Outdoor Recreation and Entertainment (see § 285-66.P.)
- (6) Wireless Communications Facilities (see § 285-66.V.)

B. Accessory uses permitted by right.

- (1) Nonresidential Accessory Structures (see § 285-63.C.)
- (2) Residential Accessory Structures (see § 285-63.D.)
- (3) Minor Home-Based Business (see § 285-63.G.)

(4) No-Impact Home-Based Business (see § 285-63.H.)

(5) Noncommercial Antennas and Satellite Dishes (see § 285-63.I.)

(6) Roof Mounted Solar Energy Systems (see § 285-63.K.)

D. The following uses are permitted where authorized by approval of Conditional Use by the Board of Supervisors, in compliance with § 285-61, herein:

(1) Accessory Dwelling Unit (see § 285-63.A.)

(2) Elder Cottage (see § 285-63.B.)

(3) Single-family attached dwelling (see § 285-64.A.)

(4) Plant Nursery and/or Greenhouse (see § 285-66.N.)

(5) Artisanal Production or Retail Manufacturing (see § 285-66.B.)

(6) Library, Museum, or Community Center (see § 285-66.I.)

(7) Place of Worship (see § 285-66.M.)

E. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

(1) Family Child Care Home (see § 285-63.F.)

(2) Ground Mounted Solar Energy Systems (see § 285-63.J.)

(3) Mobile Home Park (see § 285-64.F.)

(4) Emergency Services (see § 285-66.G.)

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

~~A. Single family detached dwellings, including the alternative types of village houses and lot line dwellings, in compliance with § 285-104A and B, herein.~~

~~B. Single family semidetached dwellings (twins) in compliance with § 285-104B, herein.~~

~~C. Single family attached dwellings, when approved as a conditional use, in compliance with §§ 285-104B and 285-106, herein.~~

~~D. Agriculture.~~

~~E. Open space uses including park and recreation areas for nonintensive uses when located in the open space area preserved in development proposals under § 285-104B, herein, including hiking, bicycling or bridle trails, picnic areas, playing fields and similar uses, and golf courses, but excluding driving ranges and miniature golf, and excluding other intensively used commercial outdoor recreation and facilities.~~

~~F. Natural areas and related uses including wildlife sanctuary, forest preserve, educational nature center, game farm, fish hatchery, hunting or fishing preserve or similar uses for the protection and propagation of wildlife.~~

~~G. Accessory uses in compliance with § 285-62 of this chapter.~~

~~H. Signs in compliance with Article XX of this chapter.~~

~~I.—Cellular communication tower, subject to the provisions of § 285-67C.~~

~~J.—No impact, home-based business.~~

§ 285-103. (r e s e r v e d) Special exception uses. [Amended 11-14-1996 by Ord. No. 96-6]

~~The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board in compliance with § 285-107, herein: (~~

~~A.—Fire station or emergency response center.~~

~~B.—Community center, service clubs or lodges only for members and their guests.~~

~~C.—Wholesale greenhouses.~~

~~D.—Elder cottages as defined herein, subject to the regulations of § 285-76.~~

§ 285-104. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-13-1998 by Ord. No. 98-4; 8-14-2003 by Ord. No. 03-04; 9-8-2005 by Ord. No. 05-08]

Subdivision, development and use of land within the R-60 Residential District shall comply with the following requirements:

A. When onlot sewage disposal is used, plans shall provide sufficient onlot sewage disposal areas in compliance with DEP regulations, and shall comply with the following standards:

(1) Minimum net lot area: 60,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(2) Minimum lot width:

(a) On existing roads external to the tract: 200 feet.

(b) On new roads internal to the tract: 160 feet.

(3) Minimum yards.

(a) Front.

[1] On existing roads external to the tract: 100 feet.

[2] On new roads internal to the tract and flag lots: 60 feet.

(b) Side: 30 feet each.

(c) Rear: 60 feet.

(4) Maximum building coverage (% of net lot area): 10%. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(5) The Board of Supervisors may request the granting of easements to permit interconnection of open space or natural features of Township-wide significance, in accord with the Township's Open Space and Recreation Plan or policies.

B. When central water supply and sewage disposal are used, the standards in the following table shall

apply: [Amended 1-14-2010 by Ord. No. 2010-01]

	Single-Family Detached Cluster	Village House, Lot Line and Single- Family Semidetached	Single-Family Attached
Maximum density (based on net lot acreage)	0.75 DU per net lot acre	0.75 DU per net lot acre	0.75 DU per net lot acre
Minimum common open space (% of gross tract acreage)	50%	50%	65%
Minimum lot area per dwelling unit	12,000 square feet	9,000 square feet	3,000 square feet
Minimum lot width per dwelling unit	90 feet	75 feet	25 feet
Minimum yards:			
Front	25 feet	25 feet	25 feet
Side			
Village house	25 feet each	15 feet one side	25 feet on end units
Lot line	25 feet each	30 feet one side	25 feet on end units
Single-family semidetached	25 feet each	35 feet one side	25 feet on end units
Rear	35 feet	35 feet	35 feet
Maximum building coverage (% of net lot area)	18%	18%	50%

- (1) For lot line and single-family semidetached units, a five-foot wide maintenance easement shall be required on the adjacent lot where it is needed for access to the exterior walls.
- (2) For single-family attached dwellings that are not lotted, the plan shall be drawn with dashed lines equivalent to the required lot and yard minimums to ensure proper building spacing, setbacks, usable areas and emergency access, although the equivalent lot areas shall not be privately owned or individually transferred.
- (3) For single-family attached dwellings, the Board of Supervisors shall require an emergency accessway, 20 feet wide, between ends of buildings and behind buildings, which may be independent of the lot areas or be located on easements on the lots.
- (4) Not more than six single-family attached dwelling units may be attached to form one building.

C. Flag lots are permitted for tracts of land existing at the time of the adoption of this subsection, which meet the dimensional requirements of this chapter, and the standards outlined in § 285-50. **[Added 3-8-2007 by Ord. No. 2007-04]**

- D. Density Bonus. Increased density is available for projects with public water and public sewer systems with the use of transferable development rights as follows: **[Added 5-12-2011 by Ord. No. 2011-02]**
 - (1) Maximum density. The maximum density shall be increased to densities allowed in Table 1, TDR Density Bonuses, of § 285-217B.
 - (2) Dimensional standards. Dimensional standards for units developed with TDRs shall conform to Subsections B and C of § 285-111 and § 285-112, Additional standards, of Article XII, R-40 High Density Residential District.

§ 285-105. Inventory, analysis and optional sketch planAdditional standards.

~~The following additional standards shall apply to subdivisions and land developments proposed in the R-60 Residential District:~~

~~A.~~

Inventory, analysis and optional sketch plan. Applicants for all proposals shall conduct an inventory and analysis of the site, and are encouraged to submit optional sketch plans for informal review, in compliance with § 285-90, ~~Inventory, analysis and optional and required sketch plans~~, of the R-80 Land Preservation District of this chapter.

~~A. Neighborhood design standards. Proposals served by central water and sewer shall comply with the neighborhood design standards found in § 285-91 of this chapter, with the following exceptions:~~

- ~~(1) Village houses, lot line dwellings and twins need not comply with the twenty five lot maximum number of lots in a neighborhood (§ 285-91A).~~
- ~~(2) Neighborhood open space shall count toward the appropriate percentage of required open space for the type of R-60 development proposed [as opposed to the 75% requirement of § 285-91M(1)].~~
- ~~(3) Neighborhoods shall comply with the neighborhood setbacks of § 285-94C, except that active recreation areas may be as close as 75 feet from neighborhood boundaries, or may be located within neighborhoods when designed as neighborhood parks.~~

~~B. Open space standards. Proposals served by central water and sewer shall comply with the § 285-92, Open land standards, with the following exceptions:~~

- ~~(1) The applicable percentage of open space/open land for R-60 proposals shall be as specified in § 285-104, herein, rather than the 75% required in § 285-92.~~
- ~~(2) Estate lots shall comply with the standards of § 285-94B, with the following exceptions:~~
 - ~~(a) Minimum lot size and maximum developed area:~~

Tract Size (acres)	Minimum Lot Size (acres)	Maximum Developed Area (acres)
Under 15	2	1
15 or more	5	1.5

~~(b) The maximum developed area shall not be counted in satisfying the minimum required open space requirement.~~

§ 285-106. Conditional use standards for single-family attached dwellings.

Single-family attached dwellings shall be permitted only when authorized as a conditional use by the Board of Supervisors in compliance with the following standards and criteria:

- A. Conditional use may be authorized when it provides an appropriate means of preserving exceptionally desirable site characteristics such as scenic views, sensitive natural features, large areas of prime agricultural soils, mature woodlands or sites of historical or cultural significance.
- B. Conditional use may be authorized when it provides an appropriate means of developing a site that is severely constrained by natural features and/or tract configuration.
- C. An application shall be filed and processed in accord with § 285-61, Conditional use application, of this chapter.
- D. The application shall be accompanied by the site inventory and analysis in compliance with § 285-90 of this chapter, and sufficient [sketch plans-detail](#) to show how development of single-family attached dwellings would achieve the goals envisioned in Subsection A and B, above.
- E. Following conditional use approval, plans shall be submitted and processed in compliance with Chapter 240, Subdivision and Land Development.

§ 285-107. Special exception standards.

Applications for uses permitted by special exception in § 285-102~~3~~ must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils and similar environmentally sensitive areas and shall be planned to minimize perceived density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing road system shall be capable of accommodating peak traffic generated by the facility in a safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the rural character of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its rural surroundings, or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage. Shall not exceed 20% of the net tract acreage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- G. Impervious surface coverage. Shall not exceed 40% of the net tract acreage. **[Amended 1-14-2010]**

by Ord. No. 2010-01]

H. Dimensional standards.

- (1) Minimum lot size: 217,800 square feet (five acres) gross lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (2) Minimum width at front building line: 300 feet.
- (3) Minimum front yard: 100 feet.
- (4) Minimum side yard: Each 50 feet.
- (5) Minimum rear yard: 100 feet.
- (6) Maximum height.
 - (a) For any dwelling: 35 feet.
 - (b) For any building accessory to any dwelling use: 14 feet, not exceeding one story.
 - (c) For any nonresidential building or other structure, 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.

ARTICLE XII
R-40 High Density Residential District

§ 285-108. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter and the statement of community development objectives found in Article I, § 285-3, of this chapter. It is the intent of this chapter to:

- A. Permit and encourage a variety of dwelling types that will provide housing for a range of income levels, age groups and lifestyles within the Township.
- B. Permit and encourage high density residential development within and immediately surrounding the villages of Frederick, Obelisk and Perkiomenville, allowing preservation of rural areas of the Township in lower density districts.
- C. Allow concentration of dwelling units in areas that would permit efficient future provision of community or central water supply and sewage disposal.
- D. Permit conventional lotting at reasonable standards where central water supply and sewage disposal are not available.
- E. Require the preservation of natural features and other open space when central water supply and sewage disposal are available or provided to a subdivision or land development.
- F. Provide density and dimensional standards that provide for flexibility in site design and preservation of open space, and encourage attractive development at the highest densities to be compatible with the generally rural character of the Township.
- G. To provide density incentives for the voluntary use of transferred development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

§ 285-109. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 2-14-2002 by Ord. No. 02-4; 8-14-2003 by Ord. No. 03-04]

[A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66.](#)

- [\(1\) Single-family attached dwelling \(see § 285-64.A.\)](#)
- [\(2\) Single-Family Detached Dwelling \(see § 285-64.B.\)](#)
- [\(3\) Single-Family Semi-Detached Dwelling \(see § 285-64.C.\)](#)
- [\(4\) Two-Family Detached Dwelling \(see § 285-64.D.\)](#)
- [\(5\) Agriculture \(see § 285-65\).](#)
- [\(6\) Plant Nursery and/or Greenhouse \(see § 285-66.N.\)](#)
- [\(7\) Outdoor Recreation and Entertainment \(see § 285-66.P.\)](#)
- [\(8\) Wireless Communications Facilities \(see § 285-66.V.\)](#)

[A. Accessory uses permitted by right.](#)

- (1) Nonresidential Accessory Structures (see § 285-63.C.)
- (2) Residential Accessory Structures (see § 285-63.D.)
- (3) Home-Based Business, Minor (see § 285-63.G.)
- (4) Home-Based Business, No-Impact (see § 285-63.H.)
- (5) Noncommercial Antennas and Satellite Dishes (see § 285-63.I.)
- (6) Roof Mounted Solar Energy Systems (see § 285-63.K.)

C. The following uses are permitted where authorized by approval of conditional use by the Board of Supervisors, in compliance with § 285-61, herein:

- a. Plant Nursery and/or Greenhouse (see § 285-66.N.)
- b. Artisanal Production or Retail Manufacturing (see § 285-66.B.)
- c. Library, Museum, or Community Center (see § 285-66.I.)
- d. Place of Worship (see § 285-66.M.)

D. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

- a. Family Child Care Home (see § 285-63.F.)
- b. Ground Mounted Solar Energy Systems (see § 285-63.J.)
- c. Mobile Home Park (see § 285-64.F.)
- d. Emergency Services (see § 285-66.G.)

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

- ~~A. Single family detached dwellings served by onlot sewage disposal, in compliance with § 285-111A, herein.~~
- ~~B. Single family detached and two family dwellings, in compliance with § 285-111B, herein.~~
- ~~C. Single family attached dwellings, in compliance with § 285-111C, herein.~~
- ~~D. Multifamily dwellings, in compliance with § 285-111D, herein.~~
- ~~E. Open space uses including parks and recreation areas for nonintensive uses, when located in the open space areas preserved in development proposals under § 285-111B and C, herein; including hiking, bicycling or bridle trails, picnic areas, playing fields and similar uses, and golf courses, but excluding driving ranges and miniature golf, and excluding other intensively used commercial outdoor recreation and facilities.~~
- ~~F. Natural areas and related uses including wildlife sanctuary, forest preserve, educational nature center,~~

~~game farm, fish hatchery, hunting or fishing preserve, or similar uses for the protection and propagation of wildlife.~~

~~G.—Accessory uses in compliance with § 285-62 of this chapter.~~

~~H.—Signs in compliance with Article XX of this chapter.~~

~~I.—Mobile home park, in compliance with Article XIII of this chapter.~~

~~J.—Agriculture.~~

~~K.—Cellular communication tower, subject to the provisions of § 285-67C.~~

~~L.—Historic educational facility, subject to the following regulations:~~

~~(1)—A tract of land on which the historic educational facility is located shall have a minimum of four acres.~~

~~(2)—The required number of off street parking spaces shall be calculated using the schedule established for institutional uses.~~

~~(3)—A sketch plan shall be filed with the Township for review by the Code Enforcement Officer and Township Engineer to confirm compliance with all other Township ordinances and rules and regulations.~~

~~M.—No impact, home based business.~~

§ 285-110. (r e s e r v e d) Special exception uses. [Amended 11-14-1996 by Ord. No. 96-6]

~~The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-113, herein:~~

~~A.—Fire station or emergency response center.~~

~~B.—Club, fraternity house or lodge for members and their guests only.~~

~~C.—Community center, noncommercial park or athletic field.~~

~~D.—Elder cottages as defined herein, subject to the regulations of § 285-76.~~

§ 285-111. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-13-1998 by Ord. No. 98-4; 7-10-2003 by Ord. No. 03-02; 8-14-2003 by Ord. No. 03-04]

Subdivision, development and use of land within the R-40 Residential District shall comply with the following requirements:

A. When onlot sewage disposal is used, plans shall provide sufficient onlot sewage disposal areas in compliance with DEP regulations, and shall comply with the following standards:

(1) Minimum net lot area: 40,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(2) Minimum lot width.

(a) On existing roads external to the tract: 200 feet.

(b) On new roads internal to the tract: 140 feet.

(3) Minimum yards.

(a) Front.

[1] On existing roads external to the tract: 75 feet.

[2] On new roads internal to the tract and on flag lots: 50 feet.

(b) Side: 30 feet each.

(c) Rear: 50 feet.

(d) Maximum building coverage (% of net lot area): 10%. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(e) Easements may be requested by the Board of Supervisors to permit interconnection of open space or natural features of Township-wide significance, in accord with the Township's open space and recreation plan or policies.

B. When central water supply and sewage disposal are used, the standards in the following table shall apply to single-family detached and two-family dwelling types: **[Amended 1-14-2010 by Ord. No. 2010-01]**

	Single-Family Detached Cluster	Village House, Lot Line and Two-Family
Maximum density (based on net lot acreage)	1.75 DU per net lot acreage	2.5 DU per net lot acreage
Minimum common open space (% of gross tract acreage)	35%	25%
Minimum net lot area per dwelling unit	10,000 square feet	7,500 square feet
Minimum lot width per dwelling unit	80 feet	60 feet
Minimum yards:		
Front	25 feet	25 feet
Side		
Village house	20 feet each	10 feet each dwelling
Lot line	20 feet each	30 feet one side
Two-family	20 feet each	15 feet for each
Rear	30 feet	30 feet
Maximum building coverage (% of net lot area)	18%	18%

	Single-Family Detached Cluster	Village House, Lot Line and Two-Family
Additional permitted building coverage for balconies, decks, entranceway coverage and similar building attachments	10%*	10%*

NOTES:

*A maximum of 5% can be impervious surface coverage.

- (1) For lot line and single-family semidetached units a five-foot wide maintenance easement shall be required on the adjacent lot where it is needed for access to the exterior walls.
- C. Single-family attached dwelling served by central water supply and sewage disposal shall comply with the following standards:
- (1) Minimum tract size: 10 acres gross lot area; 80,000 square feet net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Maximum density: five dwelling units per net lot acre. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (3) Minimum common open space: 35% of the gross lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (4) Minimum net lot area: 2,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (5) Minimum lot width: 20 feet.
 - (6) Minimum yards.
 - (a) Front: 20 feet (see Subsection C(11) below).
 - (b) Side: 25 feet on end units.
 - (c) Rear: 30 feet.
 - (7) Maximum building coverage (% of net lot area): 50%. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (8) For single-family attached dwellings that are not lotted, the plan shall be drawn with dashed lines equivalent to the required lot and yard minimums to ensure proper building spacing, setbacks, usable areas and emergency access, although the "equivalent lot areas" shall not be privately owned or individually transferred.
 - (9) For single-family attached dwellings, the Board of Supervisors shall require an emergency accessway, 20 feet wide, between ends of buildings and behind buildings, which may be independent of the lot areas or be located on easements on the lots.
 - (10) No more than six single-family attached dwelling units may be attached to form one building, except that a maximum of 25% of the number of buildings proposed may contain up to eight

dwelling units when approved by the Board of Supervisors upon favorable recommendation by the Township Planning Commission.

(11) The following building and parking setbacks shall apply to single-family attached dwellings and if a conflict occurs with other standards, these standards shall govern:

(a) Building setbacks.

[1] From roads.

[a] Seventy-five feet from external road ultimate right-of-way.

[b] Fifty feet from ultimate right-of-way for roads internal to the development.

[2] From common parking areas: 20 feet from edge of paving.

[3] From access drives: 20 feet from edge of paving.

[4] From tract boundaries: 40 feet.

(b) Parking. Parking may be provided as privately owned spaces on individual lots or as commonly-owned parking areas conveniently located among townhouse buildings. Parking setbacks:

[1] From tract boundary: 20 feet.

[2] From ultimate right-of-way: 10 feet.

[3] From edge of private street or another parking area: 10 feet.

[4] From buildings: 20 feet.

(12) Buffers. A planting area, 25 feet in width, shall be provided along the side and rear tract boundaries, planted with evergreens, shrubbery and other suitable vegetation of sufficient density to provide a total visual screen between the proposed development and adjacent property. Every effort shall be made to retain existing natural screening by topography and vegetation.

~~D. Multifamily dwellings shall be served by central water supply and sewage disposal and shall comply with the following standards:~~

~~(1) Minimum gross lot size: 10 acres. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~(2) Maximum density: six dwelling units per net lot acre. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~(3) Minimum common open space: 35% of the gross lot acreage. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~(4) Maximum building coverage: 15% of the net lot acreage. [Amended 1-14-2010 by Ord. No. 2010-01]~~

~~(5) Maximum horizontal building dimension: 150 feet.~~

~~(6) Minimum distance between buildings: 60 feet.~~

~~(7) Building setbacks.~~

- ~~(a) From roads: 75 feet from any ultimate right of way.~~
- ~~(b) From common parking areas: 20 feet from edge of paving.~~
- ~~(c) From access drives: 20 feet from edge of paving.~~
- ~~(d) From tract boundaries: 40 feet.~~

~~(8) Parking area setbacks.~~

- ~~(a) From tract boundary: 20 feet.~~
- ~~(b) From ultimate right of way: 10 feet.~~
- ~~(c) From edge of private street or another parking area: 10 feet.~~
- ~~(d) From buildings: 20 feet.~~

~~(9) Buffers. A planting area, 25 feet in width shall be provided along the side and rear tract boundaries, planted with evergreens, shrubbery and other suitable vegetation of sufficient density to provide a total visual screen between the proposed development and adjacent property. Every effort shall be made to retain existing natural screening by topography and vegetation.~~

E.D. Density bonus. Increased density is available for projects with public water and sewer systems with the use of transferable development rights as follows: **[Added 5-12-2011 by Ord. No. 2011-02]**

- (1) Maximum density. The maximum density shall be increased to densities allowed in Table 1, TDR Density Bonuses, of § 285-217B.
- (2) Dimensional standards. The standards in the following table shall apply.

		Single-Family Detached Cluster	Village House, Lot Line, and Two-Family	Single-Family Attached
a.	Minimum common open space (% of gross tract area)	25%	20%	25%
b.	Minimum net lot area	7,500 square feet	5,000 square feet	2,000 square feet
c.	Minimum lot width	75 feet	50 feet	20 feet
d.	Minimum yards			
	Front	25 feet	25 feet	20 feet
	Side	15 feet	10 feet each dwelling 20 feet one side	15 feet on end units

		Single-Family Detached Cluster	Village House, Lot Line, and Two-Family	Single-Family Attached
	Rear	30 feet	30 feet	30 feet
e.	Maximum building coverage (% of net lot area)	18%	18%	50%
f.	Additional permitted building coverage for balconies, decks, entranceway coverage and similar building attachments*	10%	10%	-

* A maximum of 5% can be impervious surface coverage

- (3) Additional standards for single-family attached units. In addition to the standards provided in the table above, single-family attached units shall also conform to § 285-111C(8), (9), (10), (11), and (12).

§ 285-112. Inventory, analysis and optional sketch plan ~~Additional standards.~~

~~The following additional standards shall apply to subdivisions and land development proposed in the R-40 Residential District:~~

~~A.~~

~~Inventory, analysis and sketch plan.~~ Applicants for all proposals shall conduct an inventory and analysis of the site, and are encouraged to submit optional sketch plans for informal review, in compliance with § 285-90, ~~Inventory, analysis and optional and required sketch plans,~~ of the R-80 Land Preservation District of this chapter.

~~A. Neighborhood design standards. Proposals served by central water and sewer shall comply with the neighborhood design standards found in § 285-91 of this chapter, with the following exceptions:~~

- ~~(1) Village houses, lot line dwellings, and twins need not comply with the twenty five lot maximum number of lots in a neighborhood (§ 285-91A).~~
- ~~(2) Neighborhood open space shall count toward the appropriate percentage of required open space for the type of R-40 development proposed [as opposed to the 75% requirement of § 285-91M(5)].~~
- ~~(3) Neighborhoods shall comply with the neighborhood setbacks of § 285-94C, except that active recreation areas may be as close as 75 feet from neighborhood boundaries, or may be located within neighborhoods when designed as neighborhood parks.~~
- ~~(4) Multifamily developments shall not be required to comply with the neighborhood design standards.~~

~~B. Open space standards. Proposals served by central water and sewer shall comply with the § 285-92,~~

~~Open land standards, with the following exceptions:~~

~~(1) The applicable percentage of open space/open land for R-40 proposals shall be as specified in § 285-111, herein, rather than the 75% required in § 285-92.~~

~~(2) Estate lots shall comply with the standards of § 285-94B, with the following exceptions:~~

~~(a) Minimum lot size and maximum developed area. [Amended 1-14-2010 by Ord. No. 2010-01]~~

Tract Size (gross lot area in acres)	Minimum Lot Size (gross lot area in acres)	Maximum Developed Area (net lot area in acres)
Under 15	2	1
15 or more	5	1.5

~~(b) The maximum developed area shall not be counted in satisfying the minimum required open space requirement.~~

§ 285-113. Special exception standards.

Applications for uses permitted by special exception in § 285-~~110-109~~ must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils and similar environmentally sensitive areas and shall be planned to minimize perceived density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing road system shall be capable of accommodating peak traffic generated by the facility in the safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the functioning of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its surroundings or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage shall not exceed 20% of the net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- G. Impervious surface coverage shall not exceed 40% of the net lot area. **[Amended 1-14-2010 by Ord.**

No. 2010-01]

H. Dimensional standards.

- (1) Minimum lot size: 130,680 square feet (three acres) gross lot area; 65,340 square feet (1 1/2 acres) net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (2) Minimum width at front building line: 250 feet.
- (3) Minimum front yard: 50 feet.
- (4) Minimum side yard: each 50 feet.
- (5) Minimum rear yard: 75 feet.
- (6) Maximum height.
 - (a) For any dwelling: 35 feet.
 - (b) For any building accessory to any dwelling use: 14 feet, not exceeding one story.
 - (c) For any nonresidential building or other structure, 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.

ARTICLE XIII
MHP Mobile Home Park Development

§ 285-114. Declaration of legislative intent.

The following is an expansion of the declaration of legislative intent contained Article I, § 285-2, of this chapter and the community development objectives contained in Article I, § 285-3, of this chapter. It is the intent of the MHP Mobile Home Park Development Regulations to establish standards of performance and promote the desirable benefits which planned mobile home parks may have upon the community. It is also the intent of this article to ensure the interdependency and compatibility of proposed mobile home park developments with essential public sewer and water facilities and surrounding land uses in the Township. Further, it is the intent of this article to:

- A. Provide for better quality and greater variety in type, design and layout of mobile home park developments than has been evident in many mobile home parks in the past by enforcing uniform standards, desirable criteria and innovative site design approaches.
- B. Provide for a diversity in housing types and prices.
- C. Provide more affordable housing to all residents of Upper Frederick Township.

§ 285-115. Use regulations.

With respect to single-family mobile home dwelling units or a mobile home park development as defined in this chapter, the following use regulations shall apply:

~~A. General regulations. A single family mobile home is a permitted use in any residential district, provided that it meets the applicable requirements for single family detached dwellings.~~

~~B.A. Mobile home park requirements. Mobile home parks are permitted use only in the R-40 Residential District, provided that when they are placed on a permanent foundation and that in compliance with the requirements outlined in this article are met.~~

B. Accessory uses.

(1) Accessory uses and structures customarily incidental to the maintenance, servicing and well-being of mobile home park residents shall be permitted only as part of an approved development plan for the mobile home park site.

~~(+)(2)~~ Each mobile home unit is permitted a no impact home occupation in accordance with § 285-63.H.

C. Commercial uses prohibited. Commercial uses are prohibited in all mobile home parks.

§ 285-116. Development regulations. [Amended 8-14-2003 by Ord. No. 03-04]

The following density, area, width and yard regulations shall apply to any proposed mobile home park development.

- A. Minimum acreage. A proposed mobile home park development site shall have a minimum of 10 contiguous gross acres. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- B. Density. The proposed mobile home park development shall have a maximum density of four dwelling units per net lot acre. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- C. Area, width and yard regulations. The following regulations shall apply:

- (1) Lot size. No mobile home lot shall be less than 6,000 square feet in net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Lot width. No mobile home lot shall be less than 60 feet wide.
 - (3) Front yard. No mobile home lot shall have front yard of less than 20 feet measured from the street ultimate right-of-way line. No more than four homes in a row shall have the same front setback, and the variations in front setbacks shall be at least four feet.
 - (4) Rear yard. No mobile home lot shall have a rear yard of less than 20 feet.
 - (5) Side yard. Each mobile home lot shall have two side yards which shall not be less than 30 feet in aggregate width nor less than 10 feet in minimum width.
 - (6) Corner lots. Each corner lot shall have two front yards, two side yards, and no rear yards.
 - (7) Building coverage. Building coverage shall not exceed 30% of the total net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- D. Setbacks. The following setbacks shall be required for mobile homes in mobile home park developments.
- (1) From any lot line adjacent to the MHP boundary line: 50 feet.
 - (2) From the street ultimate right-of-way line of.
 - (a) Road interior to the park: 20 feet.
 - (b) Roads of feeder or higher classification exterior to the park: 20 feet.
 - (c) All other road exterior to the park: 20 feet.
 - (3) From any common parking area: 20 feet.
 - (4) From any other off-street parking, including driveways: five feet.
- E. Clustering of mobile home lots. Mobile home parks that are 20 acres in size or larger shall be divided into clusters of 40 lots, with each cluster separated from adjoining clusters by a seventy-five-foot-wide strip of open space. Whenever possible, this strip of open space shall be used for the mobile home park's pedestrian circulation.
- F. Height of units. No mobile home shall exceed the height of 25 feet.
- G. Parking.
- (1) ~~Not less than two off-street automobile parking spaces shall be required for each mobile home dwelling unit.~~ Off-street parking facilities shall be provided in accordance with § 285-168, Required off-street parking facilities.
 - (2) If a twenty-six-foot width is used on interior roads and parking is allowed on these roads, then a visitor parking area is not required. Wherever a twenty-foot paving width is used, three-tenths parking spaces per dwelling unit on the twenty-foot roads must be provided in an off-street visitor parking area.
 - (3) Any parking area of five or more cars shall not be located closer than 10 feet from any lot line or 15 feet from a street ultimate right-of-way line.
 - (4) For parking areas with 10 or more parking spaces, not less than 10% of the area devoted to parking facilities shall consist of interior parking lot landscaping.

§ 285-117. General requirements.

In the proposed mobile home park the following general requirement shall apply:

- A. Utilities. All dwelling units within the mobile home park development shall be served by a public, central or community sanitary sewage disposal system and by public, central or community water supply facilities. All utility lines (electric, telephone, etc.) serving the mobile home park subsequent to the enactment of this chapter shall be placed underground.
- B. Signs. Signs shall be permitted subject to the provisions of Article XX of this chapter.
- C. Access. Provision shall be made for safe and efficient ingress and egress to and from public streets and highway servicing the mobile home park development without causing undue interference or confusion with the normal traffic flow. The Planning Commission shall satisfy itself concerning the adequacy of the thoroughfare to carry the additional traffic generated by the proposed development, as well as to the street frontage of the proposed development.
- D. Provision of open space and recreation areas. Provision shall be made for onsite open space and recreation areas according to the following standards:
 - (1) At least 25% of the gross area of any tract proposed for mobile home park development must remain as permanent open space, exclusive of any roads or parking.
 - (2) At least 25% of the required open space area shall be devoted to active recreation.
 - (3) This open space must also meet the requirements of §§ 285-52 and 285-53 of this chapter.
- E. Common areas and facilities. The provision of certain facilities serving the entire development, such as parking lots, interior pedestrian ways, driveways, lighting facilities, landscaped planting areas, buffers and open space and recreation facilities, etc., are hereby encouraged and may be located either on individual lots or in common areas.
- F. Landscaped planting areas. Shade trees shall be provided along street frontage occupied by a mobile home park development developed subsequent to the enactment of this chapter. The use of landscaped planting areas by the mobile home park developer throughout the proposed mobile home park is encouraged.
- G. Buffer area. A mobile home park development developed subsequent to the enactment of this chapter shall provide a landscaped, planted buffer area of at least 15 feet in depth, designed for screening from view any residential, commercial and industrial uses which are adjoining and contiguous to the development.
- H. Pedestrian circulation. All mobile home park development shall provide pedestrian walkways that may parallel roads, where they shall only be required on one side, or they may form a separate but coordinated system away from streets.

I. Pad foundation required.

- (1) Any such manufactured home shall be placed upon a concrete pad foundation that is at least two (2) feet in length and width beyond the dimensions of the manufactured home to be placed thereon (thereby creating a two-foot perimeter surrounding the manufactured home).
- (2) The concrete pad shall be properly graded, placed, and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons. An applicant may seek approval from the Township Engineer for an alternative foundation design, provided that a Licensed Engineer provides evidence (i.e., specifications) that the maximum anticipated loads can be supported by such.

- J. Anchoring required. All mobile homes placed within a mobile home park shall be anchored to their pad foundation (or alternative, as specified under § 285-117.I.) via an anchoring system designed to resist a minimum wind velocity of 90 miles per hour.
- M. Skirting required. All mobile homes placed within a mobile home park shall have skirts installed for the purpose of screening the underside of a manufactured home by forming an extension of the vertical exterior walls of the home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.
- N. Removal of hitch required. The hitch or tow bar attached to a mobile home for transport purposes shall be removed and remain removed from the mobile home when it is placed on its foundation.

ARTICLE XIV

IR - Institutional and Recreational District**§ 285-118. Legislative intent.**

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. To provide suitable areas within the Township to accommodate medical, educational, religious or similar institutional uses and park and recreation uses.
- B. To provide design and regulatory standards for institutional and recreational facilities which will ensure the compatibility of adjacent uses and which will minimize any adverse traffic or environmental impacts.

§ 285-119. Establishment of overlay district.

The Institutional and Recreational District shall be an overlay to the underlying districts as shown on the Zoning Map. The following provisions shall also apply to the overlay district:

- A. The provisions of the Institutional and Recreational District shall serve in place of the underlying district provisions.
- B. In the case of conflict between the provisions or requirements of this district and those of any underlying district, the provisions of this district shall apply.
- C. A change in the underlying zoning shall not affect the classification of any land zoned as the Institutional and Recreational District.
- D. The Institutional and Recreational District shall be applied only when approved by the Board of Supervisors in compliance with § 285-123, herein.

§ 285-120. Permitted uses.

A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66.

A. Uses permitted by right.

- (1) Animal Care (see § 285-66.A.)
- (2) Artisanal Production or Retail Manufacturing (see § 285-66.B.)
- (3) Automobile Service, Limited (see § 285-66.C.)
- (4) Bank or Financial Institution (see § 285-66.D.)
- (5) Emergency Services (see § 285-66.E.)
- (6) Funeral Home (see § 285-66.H.)
- (7) Office, Business/Professional (see § 285-66.K.)
- (8) Office, Medical (see § 285-66.L.)

(9) Place of Worship (see § 285-66.M.)

(10) Plant Nursery and/or Greenhouse (see § 285-66.N.)

(11) Recreation and Entertainment, Indoor (see § 285-66.O.)

(12) Restaurant (see § 285-66.R.)

(13) Retail (see § 285-66.S.)

(14) Service or Personal Care Establishment (see § 285-66.T.)

(15) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by right.

B. The following uses are permitted where authorized by approval of conditional use by the Board of Supervisors, in compliance with § 285-61, herein:

(1) Institutional Residential Facility (see § 285-64.E.); including a traditional neighborhood design option within a continuing care retirement community in accordance with § 285-124.B.

(2) Daycare Facility (see § 285-66.F.)

(3) Library, Museum, or Community Center (see § 285-66.I.)

(4) Office, Business/Professional (see § 285-66.K.)

(5) Office, Medical (see § 285-66.L.)

(6) Warehouse or Storage (see § 285-66.U.)

(7) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by conditional use.

C. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

(1) Contractors Office or Storage (see § 285-66.E.)

(+)(2) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by special exception.

A.—Township buildings and facilities.

B.—Township, county, state and federal parks and open space including, but not limited to, the Upper Perkiomen Valley Park, held for conservation, recreation and open space preservation and limited to uses of a nonintensive nature including picnic areas, playing fields, bridle trails, hiking, bicycling, fishing, ice skating, overnight camping, wildlife sanctuary, boating, playgrounds, tennis and golf courses, but excluding driving ranges and miniature golf, and excluding any intensively used outdoor recreation areas and facilities, especially those of a commercial character.

C.—Commercial solar energy system, pursuant to § 285-77.2. [Added 7-18-2019 by Ord. No. 2019-01]

§ 285-121. Special exception uses.

A.—Public and/or private schools, elementary through college levels, subject to the following requirements:

(1)—The proposed use shall have direct access to a feeder or higher classification street according to the adopted ultimate right-of-way map.

- ~~(2) The proposed site shall not be subject to any hazard or nuisance such as toxic matter, flooding, excessive noise or odor, as determined by the Board of Supervisors.~~
- ~~(3) No outdoor play areas or athletic field or courts shall be located closer than 200 feet from any property line or street ultimate right of way line and areas for spectator sports involving public access shall be located not closer than 500 feet from any property line or street ultimate right of way line, and these outdoor facilities shall be fenced and sufficiently screened to protect the neighborhood from excessive noise and other disturbances.~~
- ~~(4) Residential uses may be permitted only as accessory uses, incidental to the educational functions of the school, and may include dormitories and other types of housing, located only on the school's campus.~~
- ~~(5) Schools shall not be permitted in any areas zoned RP—Rural Preservation District.~~
- ~~B. Community center, senior citizens center or similar facility, provided the use shall not be conducted as a private for profit business and no outdoor recreation area shall be located closer than 200 feet to any lot line. Not permitted in areas zoned RP—Rural Preservation.~~
- ~~C. Library, museum or historical site open to the public.~~
- ~~D. Place of worship and adjunct dwelling units for clergy and support staff, including accessory social, recreational, day care, and educational uses directly administered by the institution. Cemeteries, when owned and operated by a religious institution. [Amended 4-10-2008 by Ord. No. 2008-05]~~
- ~~E. Institutional headquarters of a registered nonprofit organization.~~
- ~~F. Medical, surgical or rehabilitation hospital, subject to the following additional requirements:~~
- ~~(1) The proposed site shall have direct access to a feeder or higher classification street and shall not have driveway access to local or residential streets whenever possible. The adopted ultimate right of way map shall be used to determine street classifications.~~
- ~~(2) Existing residential areas shall not be infringed upon by significant increases in traffic volumes from the proposed facility as determined by the applicant's traffic impact study.~~
- ~~(3) The proposed site shall not be subject to any hazard or nuisance such as toxic matter, flooding, excessive noise, or odor, as determined by the Board of Supervisors.¹⁰~~
- ~~G. Concessions on public lands including refreshment stands, boat rentals, stables for boarding or renting horses and similar activities whenever Township regulations are not preempted by another jurisdiction. Concessions shall be subject to the following additional requirements:~~
- ~~(1) Concessions shall be buffered from residential districts or uses and shall not use amplified sound.~~
- ~~(2) Concessions shall be located at least 500 feet from any residential property line.~~
- ~~(3) Vehicular traffic through residential neighborhoods shall be avoided to reduce neighborhood traffic hazards.~~

7.—Editor's Note: Former Subsection G, Licensed institution for housing and care of the elderly, handicapped or mentally ill, which immediately followed this subsection, was repealed 6-13-2013 by Ord. No. 2013-02. This ordinance also provided for the renumbering of former Subsection H as Subsection G.

~~(4) Moveable or vehicular concessions are prohibited.~~

§ 285-121.1. Conditional uses. [Added 6-13-2013 by Ord. No. 2013-02]

~~A. The following uses shall be allowed by conditional use:~~

~~(1) Licensed institution for housing and care of the elderly, handicapped or mentally ill, including personal care, intermediate care and skilled care facilities, and necessary support staff, subject to the requirements of the Fair Housing Act, as amended, and further including a continuing care retirement community (CCRC).~~

~~(2) Traditional neighborhood design (TND) option within a continuing care retirement community on land only within the R-40 High Density Residential District, in accordance with § 285-124B.~~

~~B. In addition to the requirements specifically applicable to uses permitted by conditional use under Subsection A above, applications for a conditional use under Subsection A shall satisfy and be evaluated by the Board of Supervisors in accordance with the criteria of § 285-124.~~

~~C.~~

In the event that an application for conditional use under this § 285-121.1 is filed, a separate application for the Institutional and Recreational District under § 285-123 for the proposed use shall not be required. An application for a conditional use under this § 285-121.1 shall also be considered an application for the Institutional and Recreational District under § 285-123 for the proposed use, and the grant of the conditional use application shall have the same force and effect as the grant of an application under § 285-123 for the proposed use.

§ 285-122. Dimensional standards (permitted, special exception and conditional uses). [Amended 1-14-2010 by Ord. No. 2010-01; 6-13-2013 by Ord. No. 2013-02]

Permitted, special exception and conditional uses shall comply with the following table unless a specific standard is specified elsewhere in this article for the use:

- A. Minimum lot size: four acres gross lot area; 80,000 square feet net lot area.
- B. Minimum lot width at building setback lines.
 - (1) Two hundred feet for lots under 10 acres.
 - (2) Four hundred feet for lots 10 acres or more.
- C. Minimum street frontage: 100 feet.
- D. Minimum building setback.
 - (1) From ultimate right-of-way: 100 feet.
 - (2) From all other property lines: 50 feet.
- E. Maximum building height: 40 feet (three stories).
- F. Maximum building coverage (net lot area): 30%.
- G. Maximum impervious surface coverage (net lot area): 40%.
- H. Minimum vegetation, trees or landscaping (gross lot area): 30%.

- I. Minimum distance between buildings: 50 feet.
- J. Minimum parking area setbacks.
 - (1) From ultimate right-of-way.
 - (a) Parking area with less than 100 spaces: 50 feet.
 - (b) Parking area with more than 100 spaces: 100 feet.
 - (c) For parking areas with less than 50 spaces, the Zoning Hearing Board may reduce the setback by special exception, to not less than 10 feet.
 - (2) From buildings: 20 feet.
 - (3) From property lines: 35 feet.

§ 285-123. Application for Institutional and Recreation District.

Applications for the Institutional and Recreational District shall satisfy the following criteria and the standards of § 285-124, herein:

- A. A community impact analysis shall be submitted to the Township containing the following information for review by the Township Planning Commission and the Board of Supervisors:
 - (1) The compatibility of the proposed development with land uses that are adjacent to the site, and consistency with the Township Comprehensive Plan.
 - (2) The impact of the proposed development on sensitive natural areas including floodplains, steep slopes, woodlands, waterways, recreational areas and conservation areas.
 - (3) The impact of the development on public utilities, including sewage disposal, water supply, solid waste disposal, storm drainage and electrical utilities; and the provision of police and fire protection.
 - (4) A traffic impact study shall be submitted as required by § 285-~~7368~~, when required by the Board of Supervisors.
 - (5) Documentation of onsite or offsite improvements proposed to alleviate any projected negative impacts of the development.
- B. The use shall not generate undue and/or extraneous noise, noxious odors, air pollution or glare, or result in pedestrian-vehicular conflict or other safety hazards to people or property. Outdoor recreation facilities shall only be permitted where the noise generated by the use will have a minimal impact on nearby residential uses.
- C. Outdoor storage, waste disposal and loading areas shall be screened from streets and adjacent uses to preserve the character of the surrounding area. Such activities shall be located to the rear of structures. The location and design of parking areas shall be in harmony with preserving the general appearance and character of the area.
- D. If the evidence provided by the applicant regarding Subsections A, B and C, above, is sufficient to convince the Board of Supervisors that the proposal is suitable, then the Institutional and Recreational District shall be applied to the applicant's land, and development plans may be submitted in compliance with applicable Township regulations. The Upper Frederick Township Zoning Map shall

be amended in accordance with the provisions of the Pennsylvania Municipalities Planning Code to apply the standards of the Institutional and Recreational District to those areas approved by the Board of Supervisors. **[Amended 4-10-2008 by Ord. No. 2008-05]**

- E. Once the Supervisors have approved a proposal as being suitable for the Institutional and Recreational District, and the Upper Frederick Township Zoning Map is changed to so designate, only the use proposed by the application submitted under this section shall be permitted without further application to the Board of Supervisors. **[Added 4-10-2008 by Ord. No. 2008-05]**

§ 285-124. Development standards. [Amended 6-13-2013 by Ord. No. 2013-02]

Uses in the Institutional and Recreational District shall comply with the development standards below:

- A. Uses in the Institutional and Recreational District shall comply with the development standards below:
- (1) Traffic and access. The applicant shall demonstrate that satisfactory provisions are made to prevent traffic congestion and hazards to the surrounding area. Provisions shall be made for safe and efficient ingress and egress to and from the development. A traffic impact study, [pursuant to § 285-68](#), may be required for any use in this district to demonstrate the adequacy of the access points and streets for accommodating the traffic generated by the proposed use. Existing residential areas shall not be infringed upon by significant volumes of traffic from the proposed use.
 - (2) Water. If expected demand for water is in excess of 500 gallons per day, the applicant shall demonstrate to the Board of Supervisors that a well on the site will not adversely affect existing water supply systems in the area.
 - (3) Neighborhood impact. The impact of the proposed use on the surrounding properties and neighborhood shall be considered. The use shall not adversely affect the general welfare or orderly development of the general neighborhood in which it is proposed. The scale, form and appearance of structures and open space should be compatible with the general character of the residential area.
- B. Traditional neighborhood design option within a continuing care retirement community. A traditional neighborhood design option within a continuing care retirement community ([CCRC](#)) development shall comply with the following development standards and other provisions. Such development standards and provisions shall apply to that portion of the CCRC land on which the TND option development is proposed, except for the maximum lot and density regulations of Subsection B(5) below, which shall apply to the entire CCRC land and the existing development thereof as proposed for further development under the TND option. Additionally, upon completion of the TND option development, the area and height regulations of Subsection B(6) below, and the minimum parking regulations of Subsection B(7) below, shall apply to any further development of the CCRC land whether within or without the TND option development.
- (1) Legislative intent. Consistent with and in furtherance of the legislative intent specified in § 285-118, the traditional neighborhood design option within a continuing care retirement community is primarily intended to do the following:
 - (a) Promote a mix of diverse but compatible types of residential development within a new or existing community which provides housing and care for the elderly, handicapped or mentally ill.

- (b) Avoid development that could cause inefficient patterns of land use.
 - (c) Encourage a blend of open space areas and a mix of housing types at medium to high densities to serve the age group of the community.
 - (d) Provide for safe and convenient pedestrian, bicycle and vehicle circulation.
 - (e) Encourage the creation of a sense of place and a community spirit that promotes social interaction and volunteerism.
- (2) Establishment of design option. The traditional neighborhood design option within a continuing care retirement community shall be permitted in the Institutional and Recreational District as an overlay to the underlying R-40 High Density Residential District only. The following provisions shall also apply to the design option:
- (a) The provisions of the traditional neighborhood design option within a continuing care retirement community, as set forth in this Subsection B shall serve in place of the underlying R-40 High Density Residential District provisions and the provisions of § 285-122.
 - (b) In the case of conflict between the provisions or requirements of the traditional neighborhood design option within a continuing care retirement community, as set forth in Subsection B, and the provisions or requirements of the underlying R-40 High Density Residential District or other provisions or requirements of this article or chapter, the provisions or requirements of this Subsection B shall apply.
- (3) Process. A development for a traditional neighborhood option within a continuing care retirement community shall be permitted on land only within the R-40 High Density Residential District and only upon the grant of a conditional use for the development as provided by § 285-121~~+~~.
- (4) Dwelling types. The following dwelling types shall be permitted within the traditional design option for continuing care retirement community (CCRC):
- (a) Apartment.
 - (b) Multifamily building.
 - (c) Single-family attached, including multiplex and townhouse.
 - (d) Single-family detached dwelling.
 - (e) Two-family building, including duplex and twin.
 - (f) Elder cottage.
- (5) Lot and density regulations.
- (a) A development for a traditional neighborhood option within a continuing care retirement community shall be permitted within a continuing care retirement community which is operated as an integrated unit on all or part of a tract of land having a minimum gross lot area of 40 acres. The tract of land may consist of one parcel of land having a minimum gross lot area of 40 acres. The tract of land may also consist of two or more adjacent parcels of land, under common ownership, having a combined minimum gross lot area of

40 acres, whether or not the parcels were acquired at the time of the initial development of the continuing care retirement community or thereafter. If the tract of land consists of two or more parcels, the developer, as a part of the approval of a development for the TND option within a CCRC, shall be required to consolidate all parcels into one parcel.

- (b) The maximum density shall be no more than six dwelling units per developable acre. For purposes of such density, each independent living unit/cottage shall be equal to one dwelling unit.
 - (c) The maximum building coverage of all dwelling units shall not exceed 30% of the net lot area.
 - (d) The maximum impervious coverage shall not exceed 50% of the net lot area.
 - (e) Not less than 60% of the gross lot area at the time of subdivision or land development approval shall be retained as vegetation, trees or landscaping.
- (6) Area and height regulations.
- (a) The minimum building setback from access drives shall be 30 feet from the center line. Front-load garages (whether or not detached garages) along access drives (facing the access drive) shall be set back a minimum of 20 feet from the back of the sidewalk (the edge of the sidewalk away from the access drive).
 - (b) The minimum building setback from any alley shall be three feet from the edge of the pavement.
 - (c) The minimum building setback from any legal and/or ultimate right-of-way shall be 100 feet.
 - (d) The minimum building setback from all property lines shall be 50 feet.
 - (e) The minimum building separation requirements shall be as follows:
 - [1] For single-family detached, two-family building, elder cottage or single-family attached containing three units or fewer, the following standards shall apply:
 - [a] Distance between side faces of buildings: 15 feet.
 - [b] Distance between side and front and/or rear faces of buildings: 30 feet.
 - [c] Distance between front and rear faces of buildings: 50 feet.
 - [d] Distance between front faces of buildings: 50 feet.
 - [e] Distance between rear faces of buildings: 30 feet.
 - [f] Distance between corners of buildings: 15 feet.
 - [2] For apartment, multifamily building or single-family attached, containing more than three dwelling units, the following standards shall apply:
 - [a] Distance between side faces of buildings: 25 feet.
 - [b] Distance between side and front and/or rear faces of buildings: 50 feet.

- [c] Distance between front and rear faces of buildings: 50 feet.
 - [d] Distance between front faces of buildings: 50 feet.
 - [e] Distance between rear faces of buildings: 50 feet.
 - [f] Distance between corners of buildings: 25 feet.
- (f) The minimum side or rear yard requirement for an accessory structure or building shall be five feet.
 - (g) The maximum building height shall not exceed 40 feet or three stories.
- (7) Minimum parking.
- (a) Single-family detached, single-family attached, two-family building or elder cottage dwelling units: 1 1/2 spaces per dwelling unit.
 - (b) Multifamily or apartment dwelling units: one space per dwelling unit.

§ 285-125. Buffers.

In order to enhance the aesthetic character of the community, suitable vegetation shall be planted along streets, between lots and between zoning districts as follows:

- A. Screening buffer. Screening buffers shall be provided where institutional uses abut property developed and used for residential purposes. The screen buffer area shall be a minimum of 25 feet in width along the property line and shall contain hedge, evergreen trees, shrubbery or other suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as trees, shrubbery and topography. Screening buffers must be developed in accordance with the provisions of Chapter 240, Subdivision and Land Development.
- B. Softening buffers. Softening buffers shall be provided when institutional uses abut any other property lines. The minimum number of trees and shrubs shall be as follows, planted either formally or in imaginative groupings:
 - (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree, or three flowering or evergreen shrubs per 150 feet of property line.

ARTICLE XV
SSC - Steep Slope Conservation District

§ 285-126. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Conserve and protect areas of steep slope from inappropriate development and excessive grading.
- B. Avoid negative impacts caused by erosion, stream siltation, soil failure leading to structural collapse, damage or sanitary conditions.
- C. Minimize danger to public health and safety by promoting safe and sanitary drainage, conservation and construction practices.
- D. Permit and encourage the use of steep slope areas for open space purposes, so as to constitute a harmonious aspect of the continuing physical development of the Township.

§ 285-127. Establishment of overlay district.

- A. Overlay concept. The Steep Slope Conservation District (SSC) shall function as an overlay on any and all districts now or hereinafter enacted in the Township.
 - (1) The SSC District shall have no effect on the permitted uses in the underlying zoning district, except where uses located with the district are in conflict with permitted uses set forth in this article.
 - (2) In those areas where the SSC District applies, the SSC requirements shall superseded the requirements of the underlying zoning districts.
 - (3) Changes in the underlying zoning district(s) shall have no effect on the boundaries of the SSC District.
- B. Boundary definition. The boundaries of the SSC District are defined and established as those areas having slopes of 15% or greater, as delineated on topographical maps prepared by a registered professional engineer or surveyor and reviewed by the Township Engineer.
 - (1) Areas of steep slope defined in Subsection B, may be plotted on a map which may be made a part of this chapter and be known as the "Steep Slope Conservation District Map of Upper Frederick Township," and which will indicate the approximate boundaries of the SSC District.
 - (2) In the absence of a topographical survey prepared by a registered professional engineer or surveyor, whenever there is a difference between the SSC District Map and the USGS topographical map, the USGS map shall determine the boundary of the SSC District, upon review by the Township Engineer. However, where there is a difference between the SSC District map and a topographical survey prepared by a registered professional engineer or surveyor, that topographical survey shall determine the boundaries of the SSC District upon review by the Township Engineer.
 - (3) Changes in the boundaries of the SSC District shall be plotted, if feasible, on the SSC District Map as amendments thereto.

- C. Boundary interpretation and appeals. An initial determination as to whether the SSC District applies to a given parcel shall be made by the Zoning Officer or the Township Planning Commission.
- (1) Any party aggrieved by the decision of the Zoning Officer or Planning Commission, either because of an interpretation of the exact location of the district boundary or because the criteria used in delineating the boundary is or has become incorrect due to changes to topography, may appeal said decision to the Zoning Hearing Board as provided for by this chapter.
 - (2) The burden of proving the incorrectness of the Zoning Officer's or Planning Commission's decision shall be upon the appellant.

§ 285-128. General regulations. [Amended 8-13-1998 by Ord. No. 98-4]

- A. On those lands having a slope of 15% or greater, only those uses permitted in § 285-129A and B shall be considered. All applications for development of steep slope areas for uses under § 285-129B shall be accompanied by an erosion and sediment control plan, notwithstanding the minimum acreage requirements of the Clean Streams Law, P.L. 1987, as amended. The plan shall comply with the practices set forth in the Soil Erosion and Sediment Control Manual of the Pennsylvania Department of Environment Protection, as amended, as well as other recognized conservation practices.
- B. In evaluating the application, the Township Planning Commission, Township Engineer and Zoning Hearing Board (as applicable) shall consider the following:
- (1) Extent and severity of steep slopes on the site.
 - (2) Extent and proposed disturbance of existing vegetative cover on the site.
 - (3) Soil types and underlying geology of the site.
 - (4) Length or extent of steep slopes both on the site in question and on adjacent lands within 200 feet of the site.
 - (5) Evidence that the proposed development, any impervious surface, and the resultant disturbance to the land and existing vegetative cover will not cause excessive run-off and/or related environmental problems.

§ 285-129. Use regulations. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Permitted conservation uses. The following uses shall be permitted in the SSC District without the submission of an erosion and sediment control plan:
- (1) Wildlife sanctuary, woodland preserve, arboretum, passive recreation areas (including parks but excluding enclosed structures).
 - (2) Game farm or hunting preserve for the protection and propagation of wildlife, excluding enclosed structures.
 - (3) Forestry and reforestation in accordance with recognized soil conservation practices.
 - (4) Pasture and controlled grazing of animals in accordance with recognized soil conservation practices.
 - (5) Passive recreation areas and passive parks, including bicycle, bridle and hiking trails~~Recreational uses, including parks with activities such as hiking, bicycle and equestrian trails, camps and picnic areas, excluding enclosed structures.~~

- (6) Outdoor plant nursery or orchard in accordance with recognized soil conservation practices.
 - (7) Cultivation and harvest of crops in accordance with recognized soil conservation practices.
 - (8) Nonstructural accessory uses necessary to the operation and maintenance of the above-permitted structures.
- B. Special exceptions. The following uses shall be permitted by special exception from the Zoning Hearing Board, upon submission of an erosion and sediment control plan and supporting evidence; provided, however, that alternative placements on nonsteep slope areas have been carefully evaluated and can be demonstrated to be inappropriate or unfeasible:
- (1) Front, side and rear yards and required lot area in the underlying zoning district.
 - (2) Sealed public water supply wells with approval of the Pennsylvania Department of Environmental Protection.
 - (3) Sanitary or storm sewers and stormwater detention basins with the approval of the Township Engineer and the Department of Environmental Protection.
 - (4) Underground utility transmission lines.
 - (5) Onsite sewage disposal systems, when approved by the Department of Environmental Protection.
 - (6) Extractive uses and borrow pits in accordance with recognized conservation practices.
 - (7) Roads, access driveways and parking facilities, when no viable alternative alignment or location is feasible.
- C. Prohibited uses. The following uses are prohibited in the SSC District:
- (1) Freestanding structures, buildings and retaining walls or swimming pools, unless the applicant can demonstrate to the Zoning Hearing Board that the proposal will be sound from architectural, engineering and environmental perspectives and will have no adverse impacts on the health, safety and welfare of the community.
 - (2) The filling or removal of topsoil except when related to an activity related to an approved special exception use.
 - (3) Solid waste disposal or recycling use.
 - (4) Junkyards or other outdoor storage uses.

§ 285-130. Special exception application.

In addition to that information typically required for applications to the Zoning Hearing Board, the applicant shall supply the following with an application to the Board:

- A. A plan by a registered professional engineer or surveyor which accurately located the proposed use with respect to the SSC District boundaries and existing development within 200 feet of the proposed use, together with all pertinent information describing the proposal, topographical survey, contour elevations at five-foot intervals and the erosion and sediment control plan required by this article.
- B. The following as deemed necessary by the Zoning Hearing Board:

- (1) Plan view of the site, conforming to the preliminary plan requirements of Chapter 240, Subdivision and Land Development.
- (2) Topographic survey showing contour elevations at five-foot contours as well as typical tract cross-sections at a scale of one inch equals 100 feet or larger. In addition, typical tract cross-sections at a vertical and horizontal scale deemed appropriate by the Township Engineer.
- (3) Specifications of building materials and construction including filling, grading, materials storage, water supply and sewage disposal facilities.
- (4) Proposed modifications to the existing topography and vegetative cover, as well as the means of accommodating stormwater runoff.
- (5) Documentation of any additional engineering and/or conservation techniques designed to alleviate environmental problems created by the proposed activities.

§ 285-131. Special exception criteria.

In considering a special exception application, the Zoning Hearing Board shall consider the following:

- A. Relationship of the proposed use to the objectives set forth in § 285-126.
- B. Adverse effect to abutting or downstream properties.
- C. Evidence that:
 - (1) Proposed buildings or structures are of sound engineering design and that footings are designed to extend to stable soil and/or bedrock.
 - (2) Proposed roads, drives and parking areas are designed that land clearing and/or grading will not cause accelerated erosion. Both vertical and horizontal alignment of such facilities shall be so designed that hazardous conditions are not created.
 - (3) Proposed onlot sewage disposal facilities shall be properly designed and constructed in conformity with applicable regulations.
 - (4) Proposed nonagricultural displacement of soil shall be for causes consistent with the intent of this chapter and shall be executed in the manner that will not cause erosion or other unstable conditions.
 - (5) Surface runoff of water will not create unstable conditions, including erosion, and that appropriate stormwater management facilities will be constructed as necessary.

§ 285-132. Certificate of compliance.

No steep slope areas shall be occupied until a certificate of compliance has been issued by the Zoning Officer. The Zoning Officer shall request the applicant to submit certification by a registered professional engineer and/or land surveyor, as applicable, that the construction of any buildings or other improvements or any other changes were accomplished in compliance with this chapter. The Zoning Officer shall issue a certificate of compliance within 10 days of receipt of the certification from the applicant.

§ 285-133. Limit of municipal liability.

The granting of a use and occupancy permit or the approval of a subdivision or land development plan

on or near the SSC District shall not constitute a representation, guarantee or warranty of any kind by the Township or any official or employee thereof regarding the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or its employees. Protections provided by this chapter are reasonable for regulatory purposes and are based on engineering and scientific studies. This chapter does not imply that areas outside the SSC District are free from the adverse effect of erosion and sedimentation.

ARTICLE XVI
FPC - Floodplain Conservation District

§ 285-134. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter it is the intent of this article to:

- A. Protect areas of floodplain subject to and necessary for the containment of flood waters.
- B. Minimize danger to public health by protecting water supply and natural drainage; to provide for the preservation of natural drainageways.
- C. Permit and encourage the retention of open space land while providing for such uses and development as are compatible with these objectives.
- D. Provide regulations to ensure eligibility for owners of flood prone properties in compliance with the requirement for Federal Flood Insurance.
- E. Establish certain restrictions which are necessary within the floodplains to protect the general health, welfare and safety of the community.
- F. Prevent the erection of structures in areas unsuitable by reason of danger from flooding.
- G. Minimize danger to public health by protecting surface and subsurface water supplies and promoting safe and sanitary drainage.
- H. Permit certain uses which can be appropriately located in the floodplain as herein defined and which will not impede the flow of storage of flood water, or otherwise cause danger to life and property at, above or below their locations along the floodway.
- I. Protect nonconforming properties of individuals who have developed or occupied land in a floodplain prior to enactment of this chapter.
- J. Protect the Township from unsuitable uses of land which may cause increased expenditures for public works and disaster relief and adversely effect the economic well being of the Township.
- K. Permit only those uses in the floodplain compatible with the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year.
- L. Provide sound floodplain management for the benefit of landowners adjacent to the floodplain and for other municipalities within the same watershed, and help protect them from the impact of improper development and the consequent increased potential for flooding.
- M. Protect the open floodplain to provide for the deposition of flood borne sediment.
- N. Protect drainage courses which carry abnormal flows of stormwater in periods of heavy precipitation.
- O. Require that any permitted structures in the floodplain, including public facilities, be constructed so as to be protected from flood damage in accordance with the requirements of the National Flood Insurance Program, P.L. 90-448, and the Pennsylvania Floodplain Management Act, P.L. 851, No. 166.

§ 285-135. Definition and establishment of district. [Amended 3-13-1997 by Ord. No. 97-2; 2-11-2016 by Ord. No. 2016-03]

- A. The Floodplain Conservation District is defined and its boundaries are established as set forth in Chapter 140, Floodplain Management, and more specifically, Article IV, Identification of Floodplain Areas.
- B. All activities within the Floodplain Conservation District shall conform with all applicable provisions and requirements of Chapter 140, Floodplain Management.

§ 285-136. Overlay concept.

The Floodplain District shall be an overlay on all zoning districts and shall function in accordance with the following:

- A. For any lot or portion thereof lying within the floodplain, the regulations of the Floodplain District shall take precedence over the regulations of the underlying district.
- B. Should the underlying zoning of any lot or any part thereof which is located in the Floodplain District be changed through any legislative or judicial action, such change shall have no effect on the overlying Floodplain District unless such change was included as part of the original application.
- C. Should the overlying Floodplain District be declared inappropriate to any lot through any legislative or judicial actions, such change shall have no effect on the underlying Zoning District.

§ 285-137. Permitted uses. [Added 2-11-2016 by Ord. No. 2016-03⁴⁴⁷]

The following uses and no other will be permitted in the Floodplain Conservation District, provided that no structure is associated with the use except as specifically noted herein. All such uses shall be subject to the provisions and requirements of Chapter 140, Floodplain Management:

- A. Cultivation and harvesting of crops in accordance with recognized soil conservation practices.
- B. Pasture and grazing of land, including necessary fencing, all in accordance with recognized soil conservation practice. Fencing for pasture and grazing is permitted, provided that it shall be installed and oriented to maximize the passage of floating debris under flooding conditions as determined by the Zoning Officer.
- C. Open space uses, including wildlife sanctuary, woodland preserve, arboretum and similar uses.
- D. Passive recreation areas and passive parks, including bicycle, bridle and hiking trails.
- E. Forestry, lumbering and reforestation when reviewed and approved by the Montgomery County Conservation District.
- F. Utility transmission lines.
- G. Sealed water supply wells and water supply lines, whether public or private, when approved by the Township Engineer.
- H. Sealed sanitary sewers, whether public or private, when approved by the Township Engineer.

8.4. Editor's Note: This ordinance also repealed former § 285-137, Permitted uses, amended 8-13-1998 by Ord. No. 98-4.

I. Streambank stabilization.

§ 285-138. Prohibited uses. [Amended 2-11-2016 by Ord. No. 2016-03¹²⁸]

~~The following~~Any uses; or the commencement of any of the following activities; or the construction, enlargement or expansion of any structure used, or intended to be used, for any of the following activities are specifically prohibited in the Floodplain Conservation District:

~~A. Landfills, dumps, junkyards.~~

~~B.A.~~ Outdoor storage of vehicles and materials.

~~C.B.~~ New or substantially improved structures.

- (1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
 - (a) Will be used for the production or storage of any of the following dangerous materials or substances; or,
 - (b) Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - (c) Will involve the production, storage or use of any amount of radioactive substances;
- (2) The following list of materials and substances are considered dangerous to human life, including, but not limited to:
 - (a) Acetone.
 - (b) Ammonia.
 - (c) Benzene.
 - (d) Calcium carbide.
 - (e) Carbon disulfide.
 - (f) Celluloid.
 - (g) Chlorine.
 - (h) Hydrochloric acid.
 - (i) Hydrocyanic acid.
 - (j) Magnesium.
 - (k) Nitric acid and oxides of nitrogen.
 - (l) Petroleum products (gasoline, fuel oil, etc.).

9.5. Editor's Note: This ordinance also repealed former § 285-138, Prohibited uses.

- (m) Phosphorus.
- (n) Potassium.
- (o) Sodium.
- (p) Sulphur, sulfur products.
- (q) Pesticides (including insecticides, fungicides, and rodenticides).
- (r) Radioactive substances, insofar as such not otherwise regulated.

~~D.C.~~ On-lot sewage disposal systems.

~~E.D.~~ The relocation, alteration, encroachment or improvement of any kind to any watercourse.

~~F.~~ ~~Hospitals (public or private).~~

~~G.~~ ~~Nursing homes, convalescent homes, any type of housing and/or care facilities for the elderly and/or physically and/or mentally disabled (public or private).~~

~~H.~~ ~~Jails or prisons.~~

~~I.~~ ~~Manufactured home parks or manufactured home subdivisions, and substantial improvements to existing manufactured home parks.~~

~~J.~~ ~~Manufactured homes.~~

~~K.E.~~ All structures or additions to existing structures, buildings and retaining walls with the exception of those specifically allowed in §§ 285-137 and 285-140.

~~L.F.~~ The storage or use of recreational vehicles.

~~M.G.~~ Placement or storage of topsoil, grass clippings, and other similar earthen or organic materials.

~~N.H.~~ Sod farming.

~~O.I.~~ Detention basins.

~~P.J.~~ Sewer treatment plants and pumping stations.

~~Q.K.~~ Any use not specifically listed as a permitted use under § 285-137 or as a conditional use under § 285-140 shall be considered a prohibited use as determined by the Zoning Officer.

§ 285-139. Conditional uses. [Amended 2-11-2016 by Ord. No. 2016-03⁴³⁹]

The following and no other uses are permitted when authorized as a conditional use by the Board of Supervisors; provided that such use shall meet the standards set forth in this article. Such use shall be permitted subject to such reasonable conditions and safeguards as the Board of Supervisors may determine. All conditional uses must meet the requirements of the underlying district.

- A. Game farm, fish hatchery, or hunting and fishing reserve, for the protection or propagation of wildlife.
- B. Active, public and private, recreational uses and activities, such as: parks, camps, picnic areas, golf

~~10.6.~~ Editor's Note: This ordinance also repealed former § 285-139, Permitted structures, amended 8-13-1998 by Ord. No. 98-4.

courses, fishing, wildlife and nature preserves, boating clubs. Piers, docks, floats, or open shelters usually found in developed outdoor recreation areas are permitted when accessory to such uses. No enclosed structures, or structures that will interfere with the flow of flood waters, are permitted. Toilet facilities are permitted when connected to public water and sewage systems.

- C. Road, driveway, agricultural and utility crossings and associated culvert or bridge structures where the requirements of the Riparian Corridor Conservation District for Corridor Crossings are met (§§ 285-211 and 282-212).
- D. Development of elevated and flood-proofed buildings on brownfield sites in redevelopment areas encouraging economic revitalization.
- E. Storm sewers.
- F. Similar uses, as determined by the Zoning Officer.

§ 285-140. Conditional use and variance procedures and conditions. [Amended 2-11-2016 by Ord. No. 2016-03¹⁰⁴]

Requests for conditional uses shall be considered by the Upper Frederick Township Board of Supervisors in accordance with the applicable procedures contained in Article VII of Chapter 285 and the following contained below. Requests for variances shall be considered by the Upper Frederick Township Zoning Hearing Board in accordance with the applicable procedures contained in Article VI of Chapter 285, Articles VI and VII of Chapter 140, and the following:

- A. No conditional use or variance shall be granted for any construction, development, use or activity within any floodway area/district that would cause any increase in the BFE (as defined by Chapter 240).
- B. No conditional use or variance shall be granted for any construction, development, use or activity within any AE Area/District without floodway (as defined by Chapter 240) that would, together with all other existing and anticipated development, increase the BFE at any point.
- C. No variance shall be granted for the specifically prohibited uses contained in § 285-138C, § 285-138F, § 285-138G, § 285-138H, and § 285-138I.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any conditional use or variance, the Board of Supervisors and Zoning Hearing Board, respectively, shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare, and to achieve the objectives of this chapter.
- F. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause including:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the

~~H-7.~~ Editor's Note: This ordinance also repealed former § 285-140, Special exceptions, amended 8-13-1998 by Ord. No. 98-4.

provisions of the Zoning Ordinance¹¹⁵ in the neighborhood or district in which the property is located;

- (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance,¹²⁶ and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - (c) That such unnecessary hardship has not been created by the appellant;
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (2) That failure to grant the variance would result in exceptional hardship to the applicant.
- (3) That the granting of the variance will:
- (a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
 - (b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- G. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
- (1) The granting of the variance may result in increased premium rates for flood insurance.
 - (2) Such variances may increase the risks to life and property.
- H. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- I. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

§ 285-141. through § 285-149. (Reserved)¹³⁷

^{12-8.} Editor's Note: See Ch. 285, Zoning.

^{13-9.} Editor's Note: See Ch. 285, Zoning.

^{14-10.} Editor's Note: Former §§ 285-141 through 285-149, regarding special exceptions, variances, and technical provisions, were repealed 2-11-2016 by Ord. No. 2016-03.

ARTICLE XVII

CB - Commercial Business District

[Amended 9-14-2000 by Ord. No. 00-3; 9-8-2005 by Ord. No. 05-08; 12-8-2005 by Ord. No. 05-09; 3-8-2007 by Ord. No. 2007-04; 1-14-2010 by Ord. No. 2010-01; 4-7-2011 by Ord. No. 2011-01a; 8-10-2017 by Ord. No. 2017-01]

§ 285-150. Declaration of legislative intent.

The following is an expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter and the community development objectives contained in Article I, § 285-3, of this chapter. It is the intent of the CB - Commercial Business Districts to establish standards for the orderly and well planned establishment of commercial facilities. Further, it is the intent of this article to:

- A. Allow commercial facilities that meet the shopping and personal service needs of Township residents.
- B. Establish regulations that minimize conflicts between commercial facilities and adjacent residential and institutional properties.
- C. Provide for ample parking in commercial developments.
- D. Establish regulations that minimize congestion and hazardous traffic conditions resulting from commercial development.
- E. Locate commercial facilities in the village cores of the Township, near areas where higher density residential uses are permitted.

§ 285-151. Permitted uses.

A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66.

A. Uses permitted by right.

- (1) Animal Care (see § 285-66.A.)
- (2) Artisanal Production or Retail Manufacturing (see § 285-66.B.)
- (3) Automobile Service, Limited (see § 285-66.C.)
- (4) Bank or Financial Institution (see § 285-66.D.)
- (5) Emergency Services (see § 285-66.E.)
- (6) Funeral Home (see § 285-66.H.)
- (7) Office, Business/Professional (see § 285-66.K.)
- (8) Office, Medical (see § 285-66.L.)
- (9) Place of Worship (see § 285-66.M.)
- (10) Plant Nursery and/or Greenhouse (see § 285-66.N.)
- (11) Recreation and Entertainment, Indoor (see § 285-66.O.)
- (12) Recreation and Entertainment, Outdoor (see § 285-66.P.)

(13) Restaurant (see § 285-66.R.)

(14) Retail (see § 285-66.S.)

(15) Service or Personal Care Establishment (see § 285-66.T.)

(16) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by right.

B. The following uses are permitted where authorized by approval of conditional use by the Board of Supervisors, in compliance with § 285-61, herein:

(3) Daycare Facility (see § 285-66.F.)

(4) Library, Museum, or Community Center (see § 285-66.I.)

(5) Office, Business/Professional (see § 285-66.K.)

(6) Office, Medical (see § 285-66.L.)

(7) Warehouse or Storage (see § 285-66.U.)

(8) Wireless Communications Facilities (see § 285-66.V.)

(9) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by conditional use.

C. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

(1) Contractors Office or Storage (see § 285-66.E.)

(2) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by special exception.

~~A building or group of buildings may be erected or used, and a lot may be used or occupied, for any of the following uses, or a use of a similar character:~~

~~A.—Retail establishments for the sale of dry goods, variety merchandise, clothing, food, beverages, flowers, plants, drugs, hardware, books, furnishings, sale and repair of jewelry, optical goods, cameras and home appliances and similar uses.~~

~~B.—Personal service shop.~~

~~C.—Business or professional office; bank and financial institution.~~

~~D.—Restaurant.~~

~~E.—Indoor theater, indoor entertainment and recreation facilities.~~

~~F.—Notary, undertaking or funeral establishment.~~

~~G.—Post office.~~

~~H.—Hotel, motel, inn, bed and breakfast establishment.~~

~~I.—Emergency service facilities, including ambulance, police and firehouses.~~

~~J.—Shopping centers. Shopping centers are subject to the provisions of § 285-153 of this chapter. For the purposes of this chapter, "shopping centers" are defined as retail commercial areas with more than one use and over 30,000 square feet of building area, subject to the maximum building requirements~~

~~in § 285-152 of this chapter.~~

~~K.—Off premises signs.~~

~~L.—Apartments, not to exceed two, in buildings housing any of the uses permitted in this § 285-151.~~

~~§ 285-151.1. Conditional uses.~~

~~The following may be permitted by conditional use by the Board of Supervisors after review and recommendation from the Upper Frederick Township Planning Commission, subject to the provisions of §§ 285-61 and 285-157.1:~~

~~A.—Self service storage facilities (miniwarehouses); wholesale, warehouse, storage or distribution center, or other similar uses.~~

~~B.—Offices, shops and storage for building, plumbing, electrical or other contractors or suppliers.~~

~~C.—Medical office.~~

~~D.—Agriculture, including associated buildings.~~

~~E.—Animal hospital.~~

~~F.—Minor automotive repair.~~

~~G.—Government use, such as a community center, public library, public utility facility.~~

~~H.—Cellular communication tower, subject to the provisions of § 285-67C.~~

~~I.—Dispensary facility.~~

§ 285-152. Dimensional standards.

A. Minimum lot area: 40,000 square feet.

B. Minimum lot width: 150 feet at the ultimate right-of-way.

C. Minimum building setbacks:

(1) From the ultimate right-of-way line when parking is located between the building and the ultimate right-of-way line: 100 feet.

(2) From the ultimate right-of-way line when there is no parking between the building and the ultimate right-of-way line: 30 feet.

(3) From abutting properties that have residential or institutional uses or zoning: 30 feet.

(4) From all other abutting properties: 20 feet.

(5) From all other buildings on the same lot: 20 feet.

D. Maximum impervious surface coverage: 70% of the net lot area.

E. Maximum building coverage: 25% of the net lot area not to exceed 50,000 square feet for a single use, and 100,000 square feet for all uses on a site.

~~§ 285-153. Development standards for shopping centers.~~

~~A. Minimum lot area: four acres.~~

~~B. Minimum lot width: 250 feet at the ultimate right of way line.~~

~~C. Minimum building setbacks.~~

~~(1) From the ultimate right of way line when parking is located between the building and the ultimate right of way line: 100 feet.~~

~~(2) From the ultimate right of way line when there is no parking between the building and the ultimate right of way line: 40 feet.~~

~~(3) From abutting properties that have residential or institutional uses or zoning: 40 feet.~~

~~(4) From all other abutting properties: 30 feet.~~

~~D. Maximum impervious surface coverage: 65% of the net lot area.~~

~~E. Maximum building coverage: 20% of the net lot area.~~

~~F. Parking and circulation requirements. Same as § 285-155, except:~~

~~(1) Minimum parking setback: 25 feet from property and ultimate right of way lines.~~

~~(2) Parking areas shall be designed to separate through traffic from parking. Parking shall not be permitted along driveways which serve as entrance(s) or exit(s) to parking areas.~~

~~§ 285-154~~153. Height regulations.

The maximum height of buildings and other structures erected or enlarged in this district shall be:

~~A. For all residential buildings: 35 feet.~~

~~B.~~

~~For all other buildings: 40 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board; provided that for every foot of height in excess of 40 feet, there shall be added to each yard requirement one corresponding foot of width or depth, and provided that structures that are over 40 feet are not regularly used by people, such as chimneys, water towers, windmills, communication antennas, etc.~~

~~§ 285-155~~4. Parking and circulation requirements.

A. Parking capacity and design standards. Off-street parking facilities shall conform with the requirements of Article XIX of this chapter.

B. Minimum parking setback: 20 feet from property and ultimate right-of-way lines.

C. Parking lot landscaping: 10% of the parking area must be landscaped.

D. Driveway and internal road setback: 20 feet from property lines.

E. Driveway design standards.

(1) No more than one driveway per street frontage is permitted.

- (2) When, in the opinion of the Township Engineer, it is in the interest of good traffic operation, the Board of Supervisors may permit one additional driveway entrance along a continuous site with frontage in excess of 400 feet.
- (3) Where dual one-way driveways are used, they will be considered, for purposes of this section, to be equivalent to one standard, two-way driveway. Only one pair of one-way drives may be used per street frontage.
- (4) When feasible, driveways shall be 150 feet from driveways on adjoining properties and street intersections.
- (5) When two adjacent property owners share a common driveway and cross-easements for this driveway, the Township will grant an incentive bonus to all affected properties consisting of an increase in this impervious surface coverage of each lot of 5%. If two or more property owners share a common driveway curb cut, individual driveways are prohibited unless a lot conforms with Subsection E(2) above.

§ 285-~~156~~155. Buffer and landscaping.

- A. Screening buffer. Screening buffers shall be provided when a ~~commercial-nonresidential use property~~ abuts a residential or institutional use or district. The screening buffer area shall be a minimum of 25 feet in width along the property line, and shall contain hedge, evergreen trees, shrubbery or other suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation, and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography. Screening buffers must be developed in accordance with the provisions of Chapter 240, Subdivision and Land Development.
- B. Softening buffer. Softening buffers shall be provided when a ~~commercial-nonresidential use property~~ abuts a nonresidential use or district. The minimum number of trees and shrubs shall be as follows, planted either formally or in nontraditional groupings.
 - (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree or three flowering or evergreen shrubs per 150 feet of property line.
- C. Street trees. Along road rights-of-way, shade trees shall be planted a minimum distance of five feet beyond the ultimate right-of-way line inside the lot. Trees shall be planted not less than 40 feet apart nor more than 50 feet apart, and shall have a minimum caliper of 2 1/2 inches at time of planting.

§ 285-~~157~~156. General regulations.

- A. Outdoor display and storage. All uses, except for parking and loading areas, shall be completely enclosed within a building, except as permitted in § 285-157.4E. No merchandise, goods, articles or equipment shall be stored, displayed or offered for sale outside any building except seasonal articles which are too large or cannot be feasibly stored indoors. Such articles shall be stored adjacent to the building housing the tenant selling the articles, and shall be enclosed by either walls or opaque fencing that are at least six feet high and are designed to be architecturally compatible with the building. Any outdoor display areas shall be considered to be sales floor area for the purposes of computing building coverage and for computing parking requirements.
- B. Refuse areas. The design of buildings in the Commercial Zoning District shall either include a

provision for the storage of refuse inside the building(s) or within an outdoor area enclosed by either walls or opaque fencing. Any refuse area outside the building shall be designed to be architecturally compatible with the building(s) and shall not interfere with nor be visible from circulation within the parking lot. Such walls or fencing shall be designed to shield the refuse areas from direct view of any adjacent property, and must be at least six feet high. No trash storage area shall be located within 10 feet of an adjacent nonresidential property line nor within 40 feet of a road right-of-way or residential lot line.

~~C. Off street loading. Adequate off street loading and unloading space with proper access from a street, highway or common service driveway shall be provided for all commercial properties. All areas for loading and unloading of delivery trucks and other vehicles and for the servicing of establishments or shops by refuse collection, fuel and other service vehicles shall have adequate and unobstructed access from a street or service driveway, and shall be so arranged that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities or pedestrian ways. They shall also be so arranged that they may be used without backing out onto a street. Service areas shall be screened from view from any abutting roadway, customer parking area or residential lot line by a twenty foot wide buffer strip suitably landscaped to provide screening.~~

§ 285-157.1. Development standards for conditional uses.

- A. Minimum building setbacks for buildings in excess of 10,000 square feet.
 - (1) From the ultimate right-of-way line of arterial streets: 150 feet.
 - (2) From all abutting properties: 40 feet.
- B. Maximum impervious surface coverage: 65% of the net lot area.
- C. Maximum building coverage: 20% of the net lot area.
- D. Parking and circulation requirements. Same as § 285-154~~5~~, except:
 - (1) Minimum parking setback: 25 feet from property lines. Along arterial streets, parking shall be set back 100 feet from the ultimate right-of-way line.
 - (2) Parking areas shall be designed to separate through traffic from parking. Parking shall not be permitted along driveways which serve as entrance(s) or exit(s) to parking areas.
 - (3) When more than one street frontage exists, access shall be taken from the street with a lower classification.
- E. Outdoor storage in accordance with the following:
 - (1) Be located within the buildable area of the lot not to extend between buildings and public rights-of-way.
 - (2) Located in a confined area which shall not exceed 100% of the floor area of all buildings on the parcel.
 - (3) Shall be enclosed by either walls or opaque fencing at least six feet high.
 - (4) Buffered in accordance with § 285-165.
- F. Bay doors shall not face arterial roads.

~~G.—Dispensary facility.~~

- ~~(1)—A dispensary facility must be owned and operated by a legally registered dispensary in the commonwealth, and possess a current and valid medical marijuana permit from the DOH pursuant to the Act.¹⁸~~
- ~~(2)—A dispensary facility may only dispense medical marijuana in an indoor, enclosed, permanent and secure building, and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.~~
- ~~(3)—Dispensary facility may not operate on the same site that a grower/processor facility is located.~~
- ~~(4)—Dispensary facility shall have a single secure public entrance, and shall implement appropriate security measures to deter and prevent the theft of medical marijuana and unauthorized entrance into areas containing medical marijuana, all of which shall be in accordance with the Act.¹⁹~~
- ~~(5)—Permitted hours of operation of a dispensary facility shall be as follows:~~

Monday	10:30 a.m. to 6:00 p.m.
Tuesday	10:30 a.m. to 6:00 p.m.
Wednesday	10:30 a.m. to 6:00 p.m.
Thursday	10:30 a.m. to 6:00 p.m.
Friday	10:30 a.m. to 6:00 p.m.
Saturday	10:30 a.m. to 6:00 p.m.
Sunday	Closed

- ~~(6)—A dispensary facility shall be a maximum of 3,000 gross square feet, of which no more than 500 square feet shall be used for secure storage of medical marijuana, and shall have an interior customer waiting area equal to a minimum of 25% of the gross floor area of the dispensary facility.~~
- ~~(7)—Dispensary facility shall:~~
 - ~~(a)—Not have a drive through service;~~
 - ~~(b)—Not have outdoor seating areas;~~
 - ~~(c)—Not have outdoor vending machines;~~
 - ~~(d)—Prohibit the administering of, or the consumption of medical marijuana on the premises; and~~
 - ~~(e)—Not offer direct or home delivery service.~~
- ~~(8)—A dispensary facility may dispense only medical marijuana to certified patients and caregivers as set forth in the Act,²⁰ and shall comply with all lawful, applicable health regulations;~~

~~15.—Editor's Note: See 35 P.S. § 10231.101 et seq.~~
~~16.—Editor's Note: See 35 P.S. § 10231.101 et seq.~~
~~17.—Editor's Note: See 35 P.S. § 10231.101 et seq.~~

~~including those of the DOH.~~

- ~~(9) A dispensary facility may sell medical devices and instruments that are specifically needed for the administration of medical marijuana.~~
- ~~(10) A dispensary facility may not be located within 1,000 feet of a property line of a public, private or parochial school, day care center or church. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located.~~
- ~~(11) Dispensary facility shall be a minimum distance of 1,000 feet from the next nearest medical marijuana facility. This does not include complementing or supporting businesses covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of the municipality in which it is located. This separation distance does not apply to the distance between the grower/processor facility and the specific dispensary facility they serve, or with which they partner.~~
- ~~(12) Any medical marijuana facility lawfully operating pursuant to the Act²¹ shall not be rendered in violation of these provisions by the subsequent location of a public, private or parochial school, day care center or church.~~
- ~~(13) All external lighting serving a dispensary facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.~~
- ~~(14) Parking requirements will follow the parking schedule found in § 285-155 of the Upper Frederick Township Zoning Ordinance. Off street parking regulations shall utilize those listed for medical and dental offices, including outpatient clinics.~~
- ~~(15) A buffer planting is required where a dispensary facility adjoins a residential use or district pursuant to § 285-156 of the Upper Frederick Township Zoning Ordinance.~~
- ~~(16) Entrances and driveways to a dispensary facility must be designed to accommodate the anticipated vehicles used to service the facility.~~
- ~~(17) The dispensary facility shall require a site plan review and approval if it is utilizing an existing facility, and a land development review and approval if a new facility is being built and utilized pursuant to the Upper Frederick Township Code of Ordinances.~~
- ~~(18) Any and all other provisions contained in the Act²² affecting the construction, use and operation of a dispensary facility.~~

18. Editor's Note: See 35 P.S. § 10231.101 et seq.

19. Editor's Note: See 35 P.S. § 10231.101 et seq.

ARTICLE XVIII
I - Industrial District

§ 285-158. Declaration of legislative intent. [Amended 9-10-1998 by Ord. No. 98-5]

In expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter, and the community development objectives contained in Article I, § 285-3, of this chapter, it is the intent of the I-Industrial Districts to:

- A. Permit the well-planned development and nuisance-free operation of industrial facilities.
- B. Take advantage of highway access and visibility from major thoroughfares.
- C. Establish strict performance standards to control potentially adverse environmental effects resulting from development of permitted uses.
- D. Establish operational, dimensional and landscaping standards minimizing adverse impacts on surrounding uses and districts.
- E. Encourage integrated development of industrial parks.
- F. Provide for Township review of all development proposals to determine compliance with the standards of this article.
- G. Redefine certain types of industrial uses and establish strict performance for those uses.

§ 285-159. Permitted uses. [Amended 9-10-1998 by Ord. No. 98-5; 9-14-2000 by Ord. No. 003; 3-8-2007 by Ord. No. 2007-04]

A building may be erected, altered or used, and a lot may be used or occupied or used, in whole or in part, for any of the uses indicated below and no other, provided that such uses shall comply with the district regulations established in this article and any applicable use regulations pursuant to §§ 285-62, -63, -64, -65 and -66.

A. Uses permitted by right.

- (1) Animal Care (see § 285-66.A.)
- (2) Artisanal Production or Retail Manufacturing (see § 285-66.B.)
- (3) Automobile Service, Limited (see § 285-66.C.)
- (4) Bank or Financial Institution (see § 285-66.D.)
- (5) Emergency Services (see § 285-66.E.)
- (6) Funeral Home (see § 285-66.H.)
- (7) Office, Business/Professional (see § 285-66.K.)
- (8) Office, Medical (see § 285-66.L.)
- (9) Place of Worship (see § 285-66.M.)
- (10) Plant Nursery and/or Greenhouse (see § 285-66.N.)
- (11) Recreation and Entertainment, Indoor (see § 285-66.O.)

- (12) Recreation and Entertainment, Outdoor (see § 285-66.P.)
- (13) Research and Development (see § 285-66.Q.)
- (14) Restaurant (see § 285-66.R.)
- (15) Retail (see § 285-66.S.)
- (16) Service or Personal Care Establishment (see § 285-66.T.)
- (17) Warehouse or Storage (see § 285-66.U.)
- (18) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by right.

B. The following uses are permitted where authorized by approval of conditional use by the Board of Supervisors, in compliance with § 285-61, herein:

- (1) Daycare Facility (see § 285-66.F.)
- (2) Manufacturing, Processing, and Production (see § 285-66.J.).
- (3) Office, Business/Professional (see § 285-66.K.)
- (4) Office, Medical (see § 285-66.L.)
- (5) Wireless Communications Facilities (see § 285-66.V.)
- (6) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by conditional use.

C. The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

- (3) Contractors Office or Storage (see § 285-66.E.)
- (4) Nonresidential Accessory Use (see § 285-63.C.) associated with a use permitted by special exception.

~~Permitted uses are classified by intensity and potential for adverse offsite impacts. A building or groups of buildings may be erected or used, and a lot may be used or occupied, for any of the following uses, or any use of a similar character:~~

~~A. Class I uses. Class I uses are light, less intense uses with relatively limited potential for adverse offsite impacts.~~

- ~~(1) ²³Business and professional offices.~~
- ~~(2) Integrated industrial park development.~~
- ~~(3) Wholesale, warehouse, storage or distribution center, provided no retail sales are made from these facilities, excluding those listed in § 285-83B and C.~~
- ~~(4) Scientific or industrial research, engineering, testing or experimental laboratory or similar establishment for research, training or product development.~~
- ~~(5) Printing and publishing.²⁴~~
- ~~(6) Fabrication, packing, assembly, light manufacturing.~~

~~20. Editor's Note: Original Sec. 2102A(1), regarding uses permitted in the CB District, which previously preceded this subsection, was repealed 6-14-2007 by Ord. No. 2007-06.~~

~~21. Editor's Note: Original Sec. 2102A(7), regarding establishments for motor vehicle sales, with vehicle service and repair as an accessory use, which previously followed this subsection, was repealed 3-8-2007 by Ord. No. 2007-04.~~

~~(7) Offices, shops and storage for building, plumbing, electrical or other contractors; provided, that outdoor storage shall be prohibited.~~

~~(8) Agriculture.~~

~~(9) Kennels, animal hospitals.~~

~~(10) Public utility use.~~

~~(11) Fire stations and emergency response centers.~~

~~(12) Signs, subject to the provisions of Article XX of this chapter.~~

~~(13) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center and similar uses.~~

~~(14) Game farm, fish hatchery, hunting or fishing preserve; or similar uses designed for the protection or propagation of wildlife.~~

~~(15) Government uses, post office, community center, public library, public utility facility.~~

~~(16) Special exception. The following uses are permitted when authorized as a special exception by the Zoning Hearing Board, subject to the standards of § 285-160 herein:~~

~~(a) Branch bank or similar institution.~~

~~(b) Day care center.~~

~~(c) Restaurant.~~

~~(17) Cellular communication tower, subject to the provisions of § 285-67C.~~

~~(18) Major and minor automobile repair. [Added 8-10-2017 by Ord. No. 2017-01]~~

~~B. Class II uses. The following uses are permitted as a conditional use by the Board of Supervisors after review and recommendation from the Upper Frederick Township Planning Commission, subject to the provisions of § 285-161, including the dimensional standards of that section:~~

~~(1) Manufacturing, fabrication, assembly, processing and packaging of natural and man-made materials, chemicals, synthetics and other organic and inorganic products.~~

~~(2) Commercial or personal use heliport when authorized as a special exception by the Zoning Hearing Board.~~

~~(3) Oil and chemical processing and storage.~~

~~(4) Extraction operation.²⁵~~

~~(5) Adult uses in accordance with the standards and criteria of § 285-70. [Added 3-8-2007 by Ord. No. 2007-04]~~

~~(6) Tattoo parlors in accordance with the standards and criteria of § 285-77. [Added 3-8-2007 by Ord. No. 2007-04]~~

~~22. Editor's Note: Original Sec. 2102B(5), Junkyards, and original Sec. 2102C, Solid waste disposal facilities, which previously followed~~

~~this subsection, were repealed 3-8-2007 by Ord. No. 2007-04.~~

- ~~(7) Except those uses identified in Attachment 1 of the Central Perkiomen Valley Regional Planning Commission Intergovernmental Cooperative Implementation Agreement,²⁶ which are strictly prohibited, any lawful use not otherwise permitted in any other Zoning District in the Township. [Added 1-14-2010 by Ord. No. 2010-01]~~
- ~~(8) Grower/processor facility. [Added 8-10-2017 by Ord. No. 2017-01]~~
- ~~(a) Grower processor facility which grows medical marijuana must be owned and operated by a grower/processor legally registered with the commonwealth, and possess a current and valid medical marijuana permit from DOH pursuant to the Act.²⁷~~
- ~~(b) Grower/processor facility which grows, stores, harvests or processes medical marijuana can only do so in an indoor, enclosed and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.~~
- ~~(c) There shall be no more than one grower/processor facility per lot.~~
- ~~(d) There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any grower/processor facility where medical marijuana growing, processing or testing occurs.~~
- ~~(e) Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DOH policy or policies, and shall not be placed within any unsecure exterior refuse containers.~~
- ~~(f) The grower/processor facility shall provide only wholesale products to other medical marijuana facilities. Retail sales and dispensing of medical marijuana and related products is specifically prohibited at the grower/processor facility.~~
- ~~(g) All external lighting serving a grower/processor facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.~~
- ~~(h) Parking requirements will follow the parking regulations found in § 285-163 of the Upper Frederick Township Zoning Ordinance.~~
- ~~(i) A buffer planting is required where grower/processor facility adjoins a residential use or district in accordance with § 285-165 of the Upper Frederick Township Zoning Ordinance.~~
- ~~(j) Entrances and driveways to a grower/processor facility must be designed to accommodate the anticipated vehicles used to service the facility.~~
- ~~(k) The grower/processor facility shall require a site plan review and approval if it is utilizing an existing facility, and land development review and approval if a new facility is being built and utilized pursuant to the provisions of the Upper Frederick Township Code of Ordinances.~~
- ~~(l) Any and all other provisions contained in the Act²⁸ affecting the construction, use and~~

23. Editor's Note: A copy of said agreement is on file in the Township offices.

24. Editor's Note: See 35 P.S. § 10231.101 et seq.

25. Editor's Note: See 35 P.S. § 10231.101 et seq.

~~operation of a grower/processor facility.~~

~~(m) Any medical marijuana facility lawfully operating pursuant to the Act²⁹ shall not be considered in violation of these provisions by the subsequent location of a public, private or parochial school, day care center or church.~~

~~§ 285-160. (reserved) Standards and criteria for Class I special exceptions. [Amended 9-10-1998 by Ord. No. 98-5]~~

~~The Zoning Hearing Board may authorize a use as a Class I special exception if it conforms with the following standards and criteria:~~

~~A. The proposed special exception use(s) shall be primarily intended to serve the daily service needs of the employees of the I Industrial District.~~

~~B. The proposed special exception use shall meet the dimensional requirements and all other standards of the I Industrial District for Class I uses. [Amended 6-14-2007 by Ord. No. 2007-06]~~

~~C. The proposed special exception use shall be part of an integrated industrial park development.~~

§ 285-161. Dimensional standards. [Amended 9-10-1998 by Ord. No. 98-5; 3-8-2007 by Ord. No. 2007-04; 1-14-2010 by Ord. No. 2010-01]

The following table contains dimensional standards for standard industrial subdivisions and integrated industrial park development. In order to qualify as an integrated industrial park, a development must contain at least three uses on a total gross lot size of at least 15 acres.

	<u>Uses Permitted By Right Class I</u>	<u>Class- H Conditional Use or Special Exception Use</u>	Integrated Industrial Park Development
Minimum net lot area	80,000 square feet	10 acres	40,000 square feet minimum; 80,000 square feet average
Minimum gross lot size			15 acres
Minimum lot width (feet)	200	750	150
Minimum building setbacks, measured from:			
The ultimate right-of- way (feet)	75	250	50
Abutting properties that have residential or institutional uses or zoning (feet)	100	250	100
All other abutting properties (feet)	50	250	35
Minimum vegetative area (gross lot area)	40%	40%	40%
Maximum building coverage (based on net lot area)	25% not to exceed 15,000	25% not to exceed 15,000	25% not to exceed 15,000 square feet for a single use

Exclusive of existing rights-of-way of public roads

[26. Editor's Note: See 35 P.S. § 10231.101 et seq.](#)

§ 285-162. Height regulations.

The maximum height of buildings and other structures erected or enlarged in this district shall be 40 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board, provided that for every foot of height in excess of 40 feet there shall be added to each yard requirement one corresponding foot of width or depth, and provided that structures that are over 40 feet are not regularly used by people, such as chimneys, water towers, windmills, communications antennas, etc.

§ 285-163. Parking, circulation and loading requirements.

- A. Parking capacity and design standards. Off-street parking facilities shall conform with the requirements of Article XIX of this chapter.
- B. Minimum parking, driveway and internal road setbacks.
 - (1) From abutting properties that have residential or institutional uses or zoning: 30 feet.
 - (2) From all other abutting properties: 20 feet.
 - (3) From ultimate right-of-way lines: 20 feet.
- C. Parking lot landscaping: 10% of the parking area must be landscaped.
- D. Minimum loading area setbacks.
 - (1) From abutting properties that have residential or institutional uses or zoning: 30 feet.
 - (2) From all other abutting properties: 20 feet.
 - (3) From ultimate right-of-way lines: 75 feet.

§ 285-164. Performance standards. [Amended 8-13-1998 by Ord. No. 98-4]

All permitted uses in this district shall comply with the performance standards contained herein:

- A. Air pollution controls. All uses shall comply with the standards of the Air Pollution Control Act, 35 P.S. § 4001-4015, as amended, and the following standards:
 - (1) Smoke. Visible air contaminants shall not be emitted in such a manner that the opacity of the emissions is equal to or greater than 10% for a period or periods aggregating more than three minutes in any one hour; or equal to or greater than 30% at any time, and shall comply with Pa. Code, Title 25, Chapter 127.A(7), or its most recent update.
 - (2) Particulate, vaporous and gaseous emissions.

- (a) No emission shall be made which can cause any damage to health, to animals or vegetation or other forms of property, or which can cause any excessive soiling at any point.
 - (b) No emission of particulate matter shall exceed 0.0115 grams per dry standard cubic foot, corrected to 7% oxygen. Provisions must be made to reduce dew point cycling and resulting damage to particulate control devices.
 - (c) For measurement of the amount of particles in gases resulting from combustion, standards correction shall be applied to a stack temperature of 500° F. and 50% excess air.
- (3) Hazardous air emission. All emissions shall comply with National Emissions Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency under the Federal Clean Air Act (42 U.S.C.S. § 7412) as promulgated in 40 CFR, Part 61, or its most recent update.
- (4) Odor.
- (a) No person shall cause, suffer or permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodorous are detectable outside the property of the person where the source is being generated.
 - (b) The prohibition on odors shall not apply to odor emissions arising from the premises of a farm operation.
 - (c) Any process which causes an odor emission shall be operated in a manner such that escaping odors are eliminated. Backup odor reduction equipment shall be maintained to support primary odor reduction equipment.
- B. Noise control. At no point on the boundary of a nonindustrial zoning district shall the sound level of any operation exceed the described levels of the designated octave bands shown below for the districts indicated. Objectionable noises, due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

Octave Band in Cycles Per Second	Along Residential District Boundaries-Maximum Permitted Sound Level in Decibels	At any other point on the Lot Boundary-Maximum Permitted Sound Level in Decibels
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	59	62
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- C. Vibration control. No vibration which is discernible to the human sense of feeling shall be perceptible without instruments at any point beyond the lot line.

- D. Glare or heat control. Any operation producing intense glare or heat shall be performed within any enclosed building or behind a solid fence in such manner as to be completely imperceptible from any point beyond the lot lines.
- E. Control of radioactivity or electrical disturbance. There shall be no activities which emit dangerous or harmful radioactivity. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of any equipment located beyond the property boundary of the creator of such disturbance.
- F. Fire and explosive hazards. Flammable and explosive materials shall be stored used and transported in accordance with the applicable state and federal regulations regarding such materials and associated storage vessels.
- G. Outdoor storage.
- (1) All outdoor storage facilities for fuel, flammable or explosive materials and raw materials shall be enclosed by a fence adequate to prevent the access of children and other members of the general public.
 - (2) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
 - (3) All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, sealed containers.
 - (4) No materials or wastes of any form may be stored in a floodplain area.
 - (5) Outdoor storage and refuse areas shall be setback 30 feet from abutting properties that have residential or institutional uses or zoning and 20 feet from all other abutting properties.
 - (6) Outdoor storage and refuse areas are not permitted in the setback area measured from the ultimate right-of-way line.
- H. Waste disposal. No use shall be conducted in such a way as to discharge any treated or untreated sewage except as shall be approved by the Department of Environmental Protection and/or the Township Sewage Enforcement Officer, as appropriate; nor shall industrial wastes be stored, discharged, incinerated or otherwise disposed of except in conformance with the applicable state and federal regulations regarding solid and hazardous wastes.
- I. Public water service. Industrial uses shall be served by public water where available. Water shall be supplied from wells only after an approved or accepted geologic study furnished by the applicant and certification by a professional geologist that the underground water supply and levels will not be appreciably altered in such a way as to endanger the water level and supply for other properties. All water resources shall be approved by the Pennsylvania Department of Enforcement Protection.
- J. Electrical power. Every use shall be so designed and operated so that the service lines, substations, etc., shall conform to the most acceptable safety requirements recognized by the Pennsylvania Bureau of Labor and Industry, shall be so constructed, installed, etc., as to be an integral part of the architectural features of the plant, or if visible from abutting residential properties shall be concealed in accordance with the landscaping requirements below.

§ 285-165. Buffer and landscaping.

The following buffer and landscaping requirements shall apply to all industrial properties:

- A. Screening buffer. Screening buffers shall be provided when a use in the I Industrial District properties abut residential or institutional uses or districts. The screening buffer area shall be a minimum of 25 feet in width along the property line and shall contain hedge, evergreen trees, shrubbery or suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography. Screening buffers must be developed in accordance with the provisions of § 240-36 of Chapter 240, Subdivision and Land Development.
- B. Softening buffers. Softening buffers shall be provided when a use in the I Industrial District properties abut nonresidential uses and districts. The minimum number of trees and shrubs shall be as follows planted either formally or in imaginative groupings:
 - (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree, or three flowering or evergreen shrubs per 150 feet of property line.
- C. Open space use of buffer areas. When ~~industrial-a~~ property in the Industrial District contains or abuts a stream valley, the minimum twenty-five-foot required buffer area shall be provided and shall be measured from the floodplain line or from the top of bank above the floodplain line, whichever is further away from the watercourse. This stream valley buffer strip shall be reserved for use a trail corridor for interconnection with Township or county trail system.
- D. Street trees. Along road rights-of-way, shade trees shall be planted a minimum distance of five feet beyond the ultimate right-of-way line inside the lot. Trees shall be planted not less than 40 feet apart nor more than 50 feet apart and shall have a minimum caliper of 2 1/2 inches at time of planting.

§ 285-166. Plan submittal requirements.

Plan submitted for development of uses in the I - Industrial District shall include the following in addition to the information required by Chapter 240, Subdivision and Land Development.

- A. A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, stormwater management facilities and other constructed features on the lot; and all buildings, streets, alleys, highways, stream and other topographical features of the lot and within 200 feet of any lot line.
- B. Architectural plans and elevations for any proposed buildings.
- C. A description of existing and proposed equipment, processes and products with engineer and architectural plans in sufficient detail to describe the production and control of effects regulated by the standards of this article.
- D. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste.
- E. Designation of any fuels or potentially toxic or hazardous matter to be utilized and measures proposed to control access to, combustion of and emissions from those materials.
- F. The proposed number of shifts to be worked and the maximum number of employees on each shift.

- G. Landscaping plans in accordance with the provisions of this article.
- H. An environmental assessment statement when deemed necessary by the Board of Supervisors and/or Township Planning Commission, in accordance with the provisions of § 285-57 of this chapter.
- I. A traffic impact study when deemed necessary by the Board of Supervisors and/or Township Planning Commission, in accordance with the provisions § 285-~~74~~68 of this chapter.
- J. Letters or certificates of approval showing compliance with all state and/or federal and other legal requirements.
- K. Any other pertinent data or evidence that the Planning Commission may require.

ARTICLE XIX
Off-Street Parking and Loading

§ 285-167. Declaration of legislative intent.

In expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter and the community development objectives contained in § 285-3, of this chapter, it is the intent of the off-street parking and loading standards to:

- A. Set reasonable standards and provide reasonable controls to assure sufficient parking capacity for the uses of potential uses of land in the Township.
- B. Provide flexibility in the implementation of these standards by permitting construction of a reduced number of parking spaces under appropriate conditions.
- C. Prevent hazards to public safety caused by the intrusion of parking upon public rights-of-way.
- D. Provide design standards that will minimize the impact of parking lots on adjoining property owners.

§ 285-168. Required off-street parking facilities. [Amended 11-21-1991 by Ord. No. 91-3; Amended 1-10-2024 by Ord. No. 2024-01]

Any building or structure erected, altered or used and any lot used or occupied for any of the following purposes shall be provided with the minimum number of parking spaces set forth below, together with adequate driveways and street access in compliance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick. When the calculation of the minimum required parking spaces results in a fractional number, fractions equal to or over 0.5 shall be rounded up to the nearest whole number and fractions under 0.5 shall be rounded down to the nearest whole number.

<u>Use</u>	<u>Parking Requirement</u>
<u><i>Accessory Uses</i></u>	
<u>Accessory Dwelling Unit (ADU)</u>	<u>2 spaces per dwelling unit</u>
<u>Elder Cottage</u>	<u>1 space per elder cottage</u>
<u>Bed and Breakfast Home</u>	<u>1 space per guest room</u>
<u>Family Child Care Home</u>	<u>2 drop-off spaces (see § 285-63.F)</u>
<u><i>Residential Uses</i></u>	
<u>Single-Family Attached Dwelling (Townhouse)</u>	<u>2 spaces per dwelling unit, plus 1 additional guest space per 2 dwelling units.</u>
<u>Single-Family Detached Dwelling</u>	<u>2 spaces per dwelling unit</u>
<u>Single-Family Semi-Detached Dwelling (Twin)</u>	<u>2 spaces per dwelling unit, plus 1 additional guest space per 2 dwelling units.</u>
<u>Two-Family Detached Dwelling (Duplex)</u>	<u>2 spaces per dwelling unit (4 total spaces)</u>
<u>Institutional Residential Facility</u>	<u>3 spaces per 5 beds at full occupancy</u>
<u>Mobile Home Park</u>	<u>2 spaces per dwelling unit</u>
<u><i>Agricultural Uses</i></u>	
<u>Agriculture</u>	<u>2 spaces per dwelling unit</u>
<u><i>Nonresidential Uses</i></u>	
<u>Animal Care (e.g., veterinary office, kennel)</u>	<u>1 space per 450 square feet of gross floor area</u>
<u>Artisanal Production or Retail Manufacturing</u>	<u>1 space per 450 square feet of gross floor area</u>
<u>Automobile Service, Limited</u>	<u>3 spaces per service bay, plus 1 space per 200 square feet of</u>

	<u>gross floor area</u>
<u>Bank or Financial Institution</u>	<u>1 space per 250 square feet of gross floor area</u>
<u>Contractor's Office/Storage</u>	<u>1 space per work vehicle; plus, 1 space per employee on the largest shift or 1 space per 1,000 square feet of gross floor area, whichever is greater</u>
<u>Daycare Facility</u>	<u>1 space per employee on the largest shift, plus 1 space per 10 clients at full capacity</u>
<u>Emergency Services</u>	<u>1 space per employee on the largest shift, plus one space per service vehicle</u>
<u>Funeral Home</u>	<u>1 space per 5 fixed seats or 1 space per 200 square feet of gross floor area, whichever is greater</u>
<u>Library, Museum, or Community Center</u>	<u>1 space per 600 square feet of gross floor area</u>
<u>Manufacturing, Processing, and Production</u>	<u>1 space per 450 square feet of gross floor area or 1 space per employee on the largest shift, whichever is greater</u>
<u>Office, Business/Professional</u>	<u>1 space per 250 square feet of gross floor area</u>
<u>Office, Medical</u>	<u>6 spaces per Healthcare Provider (see definition)</u>
<u>Place of Worship</u>	<u>1 space per 5 fixed seats or 1 space per 200 square feet of gross floor area, whichever is greater</u>
<u>Plant Nursery and/or Greenhouse</u>	<u>1 space per employee on the largest shift, plus 1 space per 200 square feet of enclosed gross floor area</u>
<u>Recreation and Entertainment, Indoor</u>	<u>1 space per employee on the largest shift, plus 1 space per 5 fixed seats or 1 space per 200 square feet of gross floor area, whichever is greater</u>
<u>Recreation and Entertainment, Outdoor</u>	<u>1 space per employee on the largest shift, plus 1 space per 5 fixed seats or 1 space per 200 square feet of enclosed gross floor area, whichever is greater</u>
<u>Research and Development</u>	<u>1 space per employee on the largest shift or 1 space per 450 square feet of gross floor area, whichever is greater</u>
<u>Restaurant</u>	<u>1 space per 100 square feet of gross floor area</u>
<u>Retail</u>	<u>1 space per 200 square feet of gross floor area</u>
<u>Service or Personal Care Establishment</u>	<u>2 space per 200 square feet of gross floor area</u>
<u>Warehouse or Storage</u>	<u>1 space per employee on the largest shift or 1 space per 1,000 square feet of gross floor area, whichever is greater</u>

§ 285-169. Parking held in reserve. [Amended 8-13-1998 by Ord. No. 98-4]

If the number of spaces required by the § 285-168 is substantially larger than the number of spaces anticipated by the applicant, then the applicant may hold some of the parking in reserve in order to avoid unnecessary paving while ensuring adequate area for potential parking demands.

- A. Suitable area must be available on the site for 100% of the parking required by § 285-168, above.
- B. The number of spaces which must be paved initially may be reduced by up to 50% by the Township Supervisors, upon the recommendation of the Township Planning Commission.
- C. Suitable area must be reserved for the balance of the total number of spaces required by § 285-169; these spaces shall be constructed by the applicant if and when determined necessary by the Supervisors, upon the recommendation of the Township Planning Commission. The Supervisors may require the installation of these parking spaces under the following conditions:
 - (1) When there is evidence of a continued overflow of parking as installed by the applicant.

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- (2) When a reevaluation of the parking capacity shows that future parking needs will not be met. The parking capacity shall be reevaluated whenever there is a change in use, ownership, number of employees, number of residents, building size and/or land area.
- D. A financial guarantee in a format acceptable to the Township shall be provided by the applicant to cover the cost of installation of the parking spaces held in reserve. The financial guarantee shall be held for a period of one year, after which the Township Supervisors, in their sole discretion, with the advice of the Township Engineer, shall determine if additional parking spaces need to be installed to accommodate the parking requirements. Thereafter, the applicant shall have 60 days within which to install the additional spaces.
- E. To qualify for use of the reserve parking concept, the applicant shall provide evidence supporting reduced parking needs to the Township Planning Commission and Engineer for their review and recommendation.

§ 285-170. Design requirements.

All parking areas/lots shall be operated and maintained in accordance with the following conditions:

- A. No parking shall be permitted within 10 feet of any property line. Also, no parking shall be permitted within the required width of a screening buffer.
- B. All new or expanded parking areas ~~must~~ shall meet the requirements of § 240-20 of Chapter 240, Subdivision and Land Development, ~~§ 240-20C~~.

C. Required landscaping for new or expanded parking areas.

(1) All new or expanded parking areas shall meet the landscaping requirements of § 240-37F, -G, and -H of Chapter 240, Subdivision and Land Development.

(+)(2) One shade tree shall be required for every 40 feet of perimeter surrounding the parking area, including the length of any access driveway(s). Shade or canopy trees shall be distributed throughout the perimeter of the parking area and within internal planting islands. At least 10% of the parking area must be landscaped, in order to reduce impervious surface coverage, provide shade, control vehicular and pedestrian circulation and reduce the perceived size of the parking area. [Amended 1-14-2010 by Ord. No. 2010-01]

- D. Parking areas shall not be used for the sale, repair or dismantling of any vehicles, equipment, materials or supplies.
- E. Parking areas shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, asphalt, oil or any dust-free surfacing; and maintained in good condition, free of woods, dust, trash or debris.
- F. Parking areas shall be properly designed with entrances and exits located to minimize traffic congestion and the effect of headlight glare.
- G. Commercial and multifamily parking areas shall be provided with well or bumper guards located and arranged so that no part of any parked vehicles will extend beyond the boundaries of the parking lot area.
- H. Lighting facilities, if any, shall be arranged so that they neither unreasonably nor unnecessarily disturb occupants of adjacent residential properties nor interfere with traffic by either location or glare.
- I. There shall be no more than one attendant shelter building containing not more than 50 feet of gross floor area and set at a distance of not less than 20 feet of any boundary of the parking lot area which abuts a residential lot line.

J. All required parking spaces shall have unobstructed access to a street or drive aisle. **[Amended 1-10-2024 by Ord. No. 2024-01]**

K. Parking spaces for single ---family attached uses shall meet the following additional requirements:

- (1) No dwelling unit shall be more than 500 feet walking distance from any of its required parking spaces. **[Amended 1-10-2024 by Ord. No. 2024-01]**

§ 285-171. Required off-street loading and unloading facilities.

All commercial, industrial and institutional uses and any use that requires the receipt or distribution of materials or merchandise by trucks or other large vehicles shall provide adequate off-street loading space. Off-Street Loading shall be required and designed in accordance with the following provisions:

A. Applicability.

- (1) Facilities under 5,000 square feet: optional
- (2) Facilities of 5,000 to 10,000 square feet of gross floor area: 1 loading space
- (3) Facilities exceeding 10,000 square feet of gross floor area: 1 loading space per 10,000 square feet, or fraction thereof

B. A required loading spaces shall be at least 12 feet in width by at least 35 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 16 feet.

C. Areas provided for the loading and unloading of delivery trucks and other vehicles, and for the servicing of shops by refuse collection, fuels, and other service vehicles, shall be arranged such that they may be occupied without blocking or interfering with the use of vehicle travel lanes, access driveways, parking aisles, parking spaces, or pedestrian ways (i.e., sidewalks, trails, or crosswalks).

D. Loading areas or docks shall be located to the side or rear of the building which it serves, and shall be set back as follows:

- (1) From abutting properties that have residential or institutional uses or zoning: 100 feet.
- (2) From all other abutting properties: 75 feet.
- (3) From ultimate right-of-way lines: 75 feet.

E. Screening buffer required. Screening buffers shall be provided when a loading area abuts a residential or institutional use or district. The screening buffer area shall be a minimum of 25 feet in width along the property line, and shall contain hedge, evergreen trees, shrubbery or other suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation, and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography. Screening buffers must be developed in accordance with the provisions of Chapter 240, Subdivision and Land Development.

ARTICLE XX

Signs**§ 285-172. Declaration of legislative intent.**

In expansion of, and in addition to, the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Recognize that signs perform an important function in identifying properties, businesses, services, residences, events and other matters of interest to the public.
- B. Set standards and provide controls that permit reasonable use of signs while restricting the potential adverse visual effects of signs on the character of the Township.
- C. Control the size, number, location and illumination of signs to reduce potential hazards caused by glare or obstruction of visibility, and to reduce visual clutter which results from competition among signs.
- D. Encourage signs which are attractively designed in order to enhance the economic value as well as the visual character of the various parts of the community.
- E. Establish criteria to encourage signs that are compatible with their surroundings, appropriate to the type of activity to which they pertain, complimentary to the architecture of the buildings involved, expressive of the identity of individual proprietors or of an integrated development's identity, and which are easily readable in the circumstances in which they are seen.

§ 285-173. Definitions. [Amended 12-8-2005 by Ord. No. 05-09]

As used in this article, the following terms shall have the meanings indicated:

BEACON LIGHT — Any light with one or more beams, capable of being focused in several directions and rotated or revolved automatically.

BUILDING FACADES — A portion of any exterior elevation of a building extending from grade to the top of the parapet wall, or eaves, and the entire width of the building elevation.

BACKGROUND AREA OF A SIGN — The entire background area of a sign upon which copy could be placed. In computing the area of a sign background, only that face or faces, which can be seen from any one direction at one time will be counted.

BUSINESS SIGN — A sign that directs attention to a business, profession, activity, commodity, service, product price or entertainment conducted, sold or offered upon the premises where such sign is located or with the building to which such sign is affixed.

CONSTRUCTION SIGN — A sign identifying individuals or companies involved in design, construction, wrecking, financing or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

DIRECT SIGN ILLUMINATION — A sign designed to give forth artificial light directly or through transparent or translucent material, from a source of light within the sign including, but not limited to, neon and exposed lamp signs.

DIRECTORY SIGN — A sign which indicates the name and/or address of the occupant, the address of the premises and/or identification of any legal business or occupation which may exist at the premises.

ELECTRONIC DISPLAY SCREEN — A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, video boards, LED displays, fiber optic displays, holographic displays or other technologies of a similar nature.**[Added 10-11-2007 by Ord. No. 2007-09]**

ELECTRONIC MESSAGE CENTER — Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Such signs shall include the following modes of operation:**[Added 10-11-2007 by Ord. No. 2007-09]**

- A. **STATIC** — Signs which shall include no animation or effects simulating animation.
- B. **FADE** — Signs where static messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
- C. **DISSOLVE** — Signs where static messages are changed by means of varying light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.
- D. **TRAVEL** — Signs where the message is changed by the apparent horizontal movement of letters or graphic elements of the message.
- E. **SCROLLING** — Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

FESTOON LIGHTING — A directly illuminated sign composed of either:

- A. A group of incandescent bulbs hung or strung overhead or on building structures; or
- B. Light bulbs not shaded or hooded or otherwise screened to prevent direct rays of light from shining on adjacent properties or rights-of-way.

FLASHING SIGN — An illuminated sign on which the artificial light is not maintained stationary and constant in intensity and/or color at all times when in use.

ILLUMINATED SIGNS — A sign in which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs.

INDIRECT SIGN ILLUMINATION — A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere on the lot where said illumination occurs. If such shielding device is defective, such sign shall be deemed to be a "directly illuminated sign."

MONUMENT SIGN — A permanent sign which identifies the name of a subdivision or land development which complies with the following:

- A. One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
- B. One freestanding sign may be located at one main entrance to the development, not to exceed 25 square feet in area, or two signs not exceeding 15 square feet each, provided both signs display the same content, are identical in size, and are part of a landscaping feature.

OFF-PREMISES SIGN — A sign visible from a public way that directs attention to a business, commodity, service, entertainment, attraction or objects sold, offered or existing elsewhere than upon the same lot where the sign is displayed. The term "off-premises sign" shall include an outdoor advertising sign

(billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

ROOF LINE — The juncture of the roof and the perimeter wall of the structure.

SIGN AREA —

- A. The area of a sign shall mean the area of all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed (whether such background is open or enclosed). The calculation of sign area must include the supporting frame work and/or bracing.
- B. Where the sign consists of individual letters, designs or symbols attached to a building, awning, wall or window, the area shall be that of the smallest rectangle which encompasses all the letters, designs and symbols.
- C. Where a sign consists of an identical double-face, only one side shall be considered in the calculation of area, but if the interior angle formed by the two faces is greater than 45°, then both sides of the sign shall be considered in the calculation of area.

SIGN HEIGHT — The distance from the highest portion of the sign to the mean grade at the base of sign.

SIGN STRUCTURE — Any structure which supports or is capable of supporting a sign, whether or not an integral part of a building.

SIGN TYPES —

- A. ANIMATED SIGN — A sign with action or motion, flashing or color changes requiring electrical energy, but not including wind-actuated elements such as flags, banners or novelty items.
- B. BUSINESS SIGN — An onpremises sign which advertises or otherwise directs attention to a business, commodity, service, industry or other activity which is sold, offered or conducted, other than incidentally.
- C. CONSTRUCTION SIGN — Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed.
- D. DIRECTIONAL SIGN — Incidental sign designed to guide or direct pedestrians or vehicular traffic.
- E. DIRECTORY SIGN — A sign on which the names and location of the occupants of the use of a building is given, including office building and church directories.
- F. FREESTANDING SIGN — A self-supporting sign resting on, or supported by means of, poles or standards, situated on the ground. **[Amended 10-11-2007 by Ord. No. 2007-09]**
- G. OFF-PREMISES SIGN — A sign which advertises or otherwise direct attention to an activity not on the same lot where the sign is located.
- H. ON-PREMISES SIGN — A sign which advertises or otherwise direct attention to an activity not on the same lot where the sign is located.
- I. PARALLEL WALL SIGN — A sign mounted parallel to a wall or other vertical building surface, but does not extend beyond the edge of any wall, roof line or other surface to which it

is mounted, and does not project more than one foot from the surface to which it is mounted.

- J. PROJECTED WALL SIGN — Any sign mounted to a wall or other vertical surface other than a parallel sign, but does not project more than four feet from the surface to which it is mounted, nor project above the wall, roof line of surface to which it is mounted, or in any way interfere with normal pedestrian or vehicular traffic.
- K. REAL ESTATE SIGN — Any sign which is used to offer for sale, lease or rent the property on which the sign is placed.
- L. REVOLVING SIGNS — A sign which revolves 360°.
- M. ROOF SIGN — A sign erected upon or above a roof or parapet wall of a building, and which is wholly or partly supported by that building.
- N. TEMPORARY SIGN — A sign which advertises community or civic projects, construction projects, real estate for sale or lease or other special events on a temporary basis.
- O. VEHICULAR SIGN — Any vehicle to which a sign is affixed in such a manner that the carrying of the sign is no longer incidental to the vehicle's purpose, but becomes a primary purpose in itself. An example is an empty tractor trailer with advertising painted on its side, left for an extended period of time in front of the business premises that is advertised on the trailer.
- P. WINDOW SIGN — Any sign affixed to or visible through a window.

SPECIAL EVENT SIGN — Temporary, nonilluminated signs directing persons to temporary exhibits, shows, events, grand openings, sales, etc., may be erected subject to the following requirements:

- A. Banners, freestanding signs and signs on or in windows are permitted. Movable signs are not permitted.
- B. Total temporary sign area permitted per property shall not exceed four square feet.
- C. Signs on or in windows shall not exceed 50% of the window area.
- D. A maximum of two off-premises directional signs, not exceeding 10 square feet in sign area shall be permitted for any special event, provided that permission has been obtained from the property owner where the sign is to be placed.
- E. Signs shall not be posted more than 30 days prior to the advertised event, and must be removed no later than seven days following the event.

§ 285-174. General requirements. [Amended 12-8-2005 by Ord. No. 05-09]

Signs shall be permitted in all districts in compliance with the requirements of this article.

- A. Permit required. Prior to erecting, affixing, attaching or installing any sign on or to any building, structure or property, an application for a use and occupancy permit must be submitted to the Zoning Officer for review. The application shall include:
 - (1) A site plan showing the location of the sign in relation to buildings, structures, property lines and public or private rights-of-way. The width of street frontage(s) at the legal right(s)-of-way on the subject property shall be shown.
 - (2) A drawing of the proposed sign showing the specific dimensions of all elements of the sign, the

- specific copy, lettering, words, symbols and designs to be displayed, along with a written explanation of any illumination or unusual feature of the sign.
- B. Construction standards. Construction, choice of materials and installation of signs shall be in accordance with the standards of Chapter 112, Code Enforcement, Article II, as amended.
- C. Prohibited signs. The following types of signs or illumination of signs is prohibited in the Township:
- (1) Flashing, revolving, nonstationary or animated signs, any signs with changeable copy, or any signs with electronic display screens. **[Amended 10-11-2007 by Ord. No. 2007-09]**
 - (2) Festoon lighting or beacon lights.
 - (3) Roof signs.
 - (4) Trailer signs.
 - (5) Illuminated temporary signs.
 - (6) Vehicular signs which do not meet the requirements for a freestanding sign in the district where the vehicle is parked.
 - (7) Signs affixed with adhesives.
 - (8) Electronic message centers. **[Added 10-11-2007 by Ord. No. 2007-09]**
- D. Prohibition of hazards. Signs shall be so designed and located that they shall not create a hazard to vehicular traffic by any of the following:
- (1) Obscuring necessary visibility:
 - (a) Sign locations, sizes, types and colors shall comply with Pennsylvania Department of Transportation standards and not conflict with street, traffic and/or directional signs.
 - (b) Signs shall comply with the clear sight triangle regulations of Chapter 240, Subdivision and Land Development.
 - (2) Confusion with official street and/or traffic signs.
 - (3) Confusion with traffic control devices by reason of color, location, shape or other means.
 - (4) Creation of motion, glare or excessive brightness which may interfere with drivers' vision or be unnecessarily distracting.
- E. Public right-of-way. No sign other than official street signs, shall be erected or maintained within the legal right-of-way of any public road in the Township. No sign projecting over a public walkway shall be less than eight feet above the walk level at its lower edge.
- F. Location of signs.
- (1) No sign may be located in the side or rear yard or in a required buffer area adjacent to a zoning district with more restrictive sign requirements.
 - (2) No freestanding sign may occupy an area designated for parking, loading, walkways, cartways, driveways or other areas required to be unobstructed.

- G. Removal of signs. A sign shall be found to be in violation of this chapter, and may be required to be ordered removed by the Zoning Officer, under any of the following circumstances:
- (1) The sign has not been maintained in good condition and safe repair, and has deteriorated to the point of becoming a potential public safety hazard. The Zoning Officer shall specify a period of time in which the owner of the sign may repair or rehabilitate the sign, thereby effecting correction of the safety hazard.
 - (2) A sign is erected without an approved use and occupancy permit and does not comply with the requirements of this chapter.
- H. Illumination.
- (1) Signs may be illuminated, unless otherwise specified herein, only to the extent that is necessary to allow them to be seen and read at night at a distance not to exceed 500 feet for signs of 20 square feet or more in area, and 150 feet for signs less than 20 square feet in area.
 - (2) Professional sign of a health care practitioner, dentist, clergyman, justice of the peace, and such other person whose services are customarily considered essential in an emergency may be illuminated, provided that the illumination is white light not exceeding the equivalent of a 25 watt incandescent light source.
- I. Off-premises signs. Off-premises signs shall only be permitted under and subject to the following conditions:
- (1) Directional signs. Permitted with the written consent of the owner of the affected property, and as a special exception granted by the Zoning Hearing Board. Directional signs may be located at the nearest intersection with a Township road. Such sign may not exceed 10 square feet in sign area, and may display no more than the name of the subject business and its location, direction and distance.
 - (2) Political signs. Temporary, nonilluminated signs advertising political parties or candidates for elections shall be permitted, provided that the sign area does not exceed four square feet. Such sign shall not be displayed more than 30 days prior to an election, and must be removed no later than seven days following the election.
 - (3) Special event signs. One temporary, nonilluminated sign directing attention to temporary exhibits, shows or special events of a noncommercial nature, shall be permitted, per property, per street frontage, provided the sign does not exceed four square feet. Such signs shall not be displayed more than 30 days prior to the advertised event, and must be removed no later than seven days following the event.
 - (4) Service signs. Nonilluminated signs directing patrons, members or other audience to service clubs, churches or other nonprofit organizations shall be permitted, provided the area of such signs does not exceed four square feet. Such signs shall indicate only the name of the organization, and the place, date and time of the meetings.
 - (5) Official signs. Memorial or historical markers, official signs directing traffic, signs identifying communities and street names, legal notices and warnings, and other official signs authorized or erected by appropriate governmental authorities shall be permitted.
 - (6) Billboards and business signs. Off-premises signs advertising an establishment, merchandise, service or entertainment which is sold, produced, manufactured or furnished at a place other

than on the property on which said sign is located shall be permitted only in the CB - Commercial Business District as a conditional use, provided that:

- (a) Only one billboard or off-premises business sign is permitted per lot.
- (b) Billboards or off-premises business signs shall not exceed a maximum height of 12 feet above ground level. The height shall be measured to the highest part of the sign or supporting structure.
- (c) A billboard or off-premises business sign may be double-faced, with two advertising surfaces. Both surfaces shall be the same size and shape. The maximum sign area per side shall be 100 square feet.
- (d) Each billboard or off-premises business sign shall comply with the following minimum setbacks:
 - [1] No billboard or off-premises business sign shall be erected within the ultimate right-of-way of any street, road or highway.
 - [2] Other than as established under Subsection I(6)(d)[4], 50 feet from any side or rear property line.
 - [3] One hundred fifty feet from any intersection on the same side of any public roadway, no billboard or off-premises business sign shall be erected or placed in any manner so as to interfere with or impede the unobstructed vision of a motor vehicle operator attempting to enter on or exit from any intersection, public or private roadway, or any driveway or parking facility.
 - [4] One hundred feet from any property line abutting a residential use.
 - [5] One thousand feet from any other billboard or off-premises business sign.
 - [6] Forty feet from any building on the same side of the street as the proposed sign.
- (e) Each sign shall be erected on permanent footings and support structures that meet the standards of the Township Building Code, as amended.
- (f) All billboards and off-premises business signs shall be maintained in a good and safe structural condition. The painted portion of all such signs shall be kept in good condition.
- (g) The general area in the vicinity of all billboards and off-premises business signs shall be kept free and clear of sign material, debris and the area shall be maintained so as to adhere to any and all Township ordinances as now in effect or as hereinafter enacted or amended.
- (h) Billboards and off-premises business signs may only be illuminated under the following conditions:
 - [1] The lighting or relighting of signs and billboards shall be based on control of illumination, glare, light pollution and light trespass. Illumination shall not exceed an average of 15 vertical maintained foot-candles based on the surface area of the sign with a maximum to minimum uniformity ratio not to exceed 6:1.
 - [2] Applications for signs and billboards for which illumination is proposed, shall be accompanied by a point plot of illuminances on the sign or billboard face, catalog

cuts of proposed fixtures and glare reduction devices and a description of lamps, mounting locations, aiming angles, and proposed method for automatically extinguishing the lighting by 10:00 p.m.

- [3] Lighting fixtures for signs and billboards shall be installed and aimed so as not to project their output into the windows of neighboring residences, adjacent uses, past the face of the sign or billboard, skyward or onto a public roadway.
 - [4] The illumination of billboards and off-premises signs between 10:00 p.m. and dawn shall be prohibited.
 - [5] Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign or billboard and aimed downward unless otherwise approved by the Township Engineer. The fixtures shall be designed, shielded, fitted and aimed to limit the light pattern to the sign or billboard and not beyond.
 - [6] Rotating, pulsating or oscillating light sources, lasers, beacons or strobe lighting shall not be permitted.
- (i) No billboard or off-premises business sign shall be erected, added to, altered or changed (content of copy) without the owner thereof having first obtained a zoning permit from the Township, which shall be issued by the Zoning Officer or other party designated by the Board of Supervisors. The zoning permit shall be renewable annually or upon a change to the face, information or content thereof, at a fee to be established by the Board of Supervisors from time to time by resolution of the Board. For all billboard or off-premises signs in excess of 50 square feet, the owner thereof shall also obtain a building permit which shall be issued by the Building Inspector, or other party designated by the Board of Supervisors, at a fee to be established by the Board from time to time by resolution. In addition, for all billboard and off-premises business signs, the applicant shall also provide a copy of a plan of the property or tract of land, prepared to scale, depicting dimensional limits of the sign face, the perimeter boundaries as taken from the deed for said tract, identifying the current owner of the tract, all adjacent owners, the location and dimensions of abutting streets, the proposed location of the sign area to be provided and all easements or utility installations affecting such site. The plan shall also depict the supporting structure and the specifications of the materials and methods of construction and maintenance to be employed, signed and certified by a registered licensed professional engineer. Where lighting is proposed, the plan shall be submitted to the Township Engineer for review, and owner shall pay the fee as established by resolution of the Board of Supervisors for such a lighting review.

§ 285-175. Signs in residential districts. [Amended 12-8-2005 by Ord. No. 05-09]

The following provisions shall apply to all uses in residential districts and to residential uses in nonresidential districts.

A. Permitted onpremises signs.

(1) Real estate signs.

- (a) Individual properties. Nonilluminated onpremises real estate signs, provided the sign area does not exceed six square feet, and not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in

which event not more than two such signs may be erected on each frontage.

- (b) Small developments. Nonilluminated onpremises sign advertising sale or rental of dwelling units in a development or subdivision of up to 10 dwelling units, provided that the sign area shall not exceed 15 square feet, and provided that not more than one such sign shall be erected within any such development.
 - (c) Large developments. Nonilluminated onpremises sign advertising sale or rental of dwelling units in a development or subdivision of more than 10 dwelling units, provided that the sign area shall not exceed 30 square feet, and provided that not more than two such signs shall be erected within any such subdivision.
- (2) Directional signs. Onpremises directional signs, provided that the area of any such sign shall not exceed three square feet.
 - (3) Private property signs. Nonilluminated, onpremises "No Trespassing" signs, "No Hunting" signs, and other similar signs indicating private ownership of roadways or other property, provided that the sign area shall not exceed two square feet and shall be spaced at intervals of not less than 100 feet.
 - (4) Construction signs. Temporary, nonilluminated, onpremises construction signs, provided:
 - (a) The sign area shall not exceed eight square feet.
 - (b) No more than one such sign for each contractor performing work on any one property shall be erected on that property.
 - (c) All such signs shall be removed upon completion of the work.
 - (5) Business signs.
 - (a) Home occupations. Nonilluminated, onpremises signs identifying and advertising bed-and-breakfasts, rooming houses and home occupations, provided that the sign are shall not exceed six square feet, and provided that not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership.
 - (b) Businesses in residential districts. Onpremises business signs for commercial, industrial, professional and office uses in residential zoning districts, provided that the sign are shall not exceed 20 square feet and no more than one such sign is erected on any one property in single and separate ownership.
 - (c) Roadside stand sign. Nonilluminated onpremises sign advertising the sale of agricultural products at a roadside stand, provided that the sign are shall not exceed eight square feet, and provided that not more than one such sign shall be placed on any one street frontage of any property in single and separate ownership.
 - (6) Signs for residential complexes and institutional uses.
 - (a) Onpremises sign for a school, camp, church, health care facility, health care service, private club or other institution of a similar nature, displaying the name of the institution and its activities or services, provided that the sign area shall not exceed 15 square feet, and provided that not more than one such sign shall be erected on any street frontage of any property in single and separate ownership. Said sign shall be setback at least 1/3 the distance of any required yard from any property line or street line.

- (b) Permanent signs which identify the name of a subdivision or land development shall be permitted in compliance with the following:
 - [1] One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
 - [2] One freestanding sign may be located at one main entrance to the development, not to exceed 30 square feet in area, or two signs not exceeding 15 square feet each.
 - (7) Monument signs. A permanent monument sign which identifies the name of a subdivision or land development is permitted, provided:
 - (a) One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
 - (b) One freestanding sign may be located at one main entrance to the development, not to exceed 25 square feet in area, or two signs not exceeding 15 square feet each, provided both signs display the same content, are identical in size and are a part of a landscaping feature.
- B. Height. The maximum height limit of any sign permitted in residential districts shall be six feet.

§ 285-176. Sign regulations for nonresidential districts.

The following provisions shall apply to all nonresidential uses in nonresidential districts:

A. Permitted onpremises signs.

- (1) Single occupancy business signs. Properties in single and separate ownership, with a single business premises, may have a sign or signs within the following limits on sign area:
 - (a) Twenty square feet of sign area for a business where the road frontage of the property (in single and separate ownership) upon which it is located is up to 40 feet.
 - (b) The sign area may be increased by one-square-foot every three additional feet of building frontage in excess of 40 feet.
 - (c) The total maximum sign area shall be exceed 40 square feet.
 - (d) In order to encourage users to provide the community with an attractive, unified outdoor advertising scheme, it is further provided that if the user chooses to mount a parallel sign(s) or awning sign(s), rather than freestanding or projecting sign, the maximum allowable sign area (calculated above) may be increased by 20%.
- (2) Multiple-occupancy business signs. Properties in single and separate ownership, with multiple businesses, tenants or franchise center as whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 40 square feet.
 - (a) Each multiple-occupancy property may have a single freestanding sign which identifies the business or commercial center as a whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 40 square feet.
 - (b) In addition, each individual business on the property may have a parallel or awning sign

of no more than 20 square feet in area.

- (3) Real estate signs. Nonilluminated onpremises sign no larger than 10 square feet in sign area. One such sign per road frontage is permitted.
- (4) Construction signs. Temporary, nonilluminated construction signs shall not exceed 15 square feet in sign area, and shall be removed upon completion of the work. No more than one sign per contractor performing work on a property shall be permitted.

B. Height. The maximum height of signs in nonresidential districts shall be:

- (1) Ten feet for freestanding signs for individual uses.
- (2) Fourteen feet for freestanding shopping center signs and multiple directory signs.
- (3) Seventy-five percent of the wall height for wall signs, measured on the wall upon which the sign is placed.

~~ARTICLE XXI~~ RESERVED
~~Solid Waste Disposal and Recycling~~

~~§ 285-177. Declaration of legislative intent.~~

~~In expansion of the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to provide regulations for the processing, treatment, storage and disposal of solid waste in the Township encourage resource recovery, cogeneration of energy and recycling as a means of managing solid waste.~~

- ~~A. To encourage resource recovery, cogeneration of energy and recycling as a means of managing solid waste.~~
- ~~B. To protect the public health, safety and welfare from the impacts of transporting, processing, treating, storing and disposing of solid waste and recyclable materials by establishing reasonable and adequate performance standards for facilities permitted by this chapter.~~
- ~~C. To provide standards and criteria governing the location and operation of solid waste disposal facilities and recycling facilities where they are specified as permitted uses in zoning districts.~~

~~§ 285-178. Definitions.~~

~~In addition to terms defined in Article V of this chapter, the following words and terms shall have the specified meanings in this chapter:~~

~~AFFECTED LANDS— Land affected during the lifetime of operations, including areas where disposal, storage, transfer, processing or composting actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been distributed as a result of or incidental to the operation of the facility.~~

~~APPLICANT— The terms "applicant" and "occupant" shall be synonymous and shall mean those individuals, authorities, private firms or others who are responsible for making application(s) to the Board of Supervisors and for operating the solid waste disposal facilities.~~

~~COMMUNITY DROP OFF CENTER— A recycling facility for the collection, sorting and short term storage of source separated recyclable materials that handles less than 250 tons per year of those materials.~~

~~COMPOSTING— The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus like product.~~

~~COMPOSTING FACILITY— A facility using land for processing of municipal waste by composting. The term includes affected lands, as defined herein. The term does not include a facility for composting residential municipal waste that is located at the site where the waste was generated.~~

~~DISPOSAL— The deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air, or is discharged to the waters of the commonwealth.~~

~~GENERAL COMPOSTING FACILITY— A composting facility other than a leaf composting facility.~~

~~INCINERATOR— An enclosed device using controlled combustion for the primary purpose of thermally breaking down solid waste.~~

~~INTERMEDIATE PROCESSING CENTER— A facility for the assembly, storing and/or and short term~~

~~storage of more than 250 tons per year of source-separated recyclable materials and any amount of salvaged material, generally in preparation for transfer to a materials processing center or primary user of those materials. Includes "junkyard."~~

~~LEAF COMPOSTING FACILITY—A facility for composting vegetative material, including leaves, garden residue and clipped shrubbery and tree trimmings. The term does not include a facility that is used entirely or partly for composting grass clippings.~~

~~MATERIALS PROCESSING CENTER—An industrial operation that converts recyclable materials into a form suitable for use as a raw material.~~

~~OPERATOR—A person or persons engaged in solid waste processing or disposal.~~

~~PROCESSING—Any technology used for the purpose of reducing the volume or bulk of municipal or residual waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities and resource recovery facilities.~~

~~RECYCLING—The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.~~

~~RECYCLING FACILITY—A facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute or supplement to virgin raw materials. The term includes affected lands, as defined herein. The term shall not mean transfer stations or landfills or solid waste or composting facilities or resource recovery facilities.~~

~~RESOURCE RECOVERY FACILITY—A processing facility that provides for the extraction and utilization of materials or energy from municipal waste that is generated off-site, including a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal waste to usable energy, and any chemical and biological process that converts municipal waste into a fuel product. The term includes any facility for the combustion of municipal waste that is generated off-site, whether or not the facility is operated to recover energy. The term includes affected lands, as defined herein. The term does not include:~~

~~A.—Any composting facility.~~

~~B.—Methane gas extraction from a municipal waste landfill.~~

~~C.—Any separation and collection center, drop-off point or collection center for recycling, or any source separation or collection center for composting leaf waste.~~

~~SALVAGING—The controlled removal or recycling of material from a solid waste processing or disposal facility.~~

~~SOLID WASTE MANAGEMENT ACT—The act of July 7, 1980 (P.L. 380, No. 97), as amended.~~

~~SOURCE SEPARATE RECYCLABLE MATERIALS—Materials that are separated from municipal waste at the point of origin for the purpose of recycling.~~

~~TRANSFER FACILITY—A facility which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal. The term includes affected lands, as defined herein. The term does not include portable storage containers used for the collection of municipal waste.~~

~~WASTE—A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source separated recyclable materials. Waste is further classified as follows, in accordance with Act 101, the Solid Waste Management Act.~~

- ~~A.— AGRICULTURAL WASTE—Poultry and livestock manure, or residual material in liquid or solid form generated in the production and marketing of poultry, livestock, furbearing animals and their products, if the agricultural waste is not hazardous. The term includes the residual materials generated in producing, harvesting and marketing of agronomic, horticultural and silvicultural crops or commodities grown on the premises of a farm operation.~~
- ~~B.— CLEAN FILL—Uncontaminated, nonwater soluble, nondecomposable inert solid material used to level an area or bring the area to grade. Includes uncontaminated soil, rock, gravel, brick, block and concrete, as well as waste from clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.~~
- ~~C.— CONSTRUCTION/DEMOLITION WASTE—Solid waste resulting from the construction or demolition of buildings and other structures, including wood, plaster, metals, asphaltic substance bricks, block and unsegregated concrete. The term also includes dredging waste. The term does not include "clean fill" separated from other waste.~~
- ~~D.— HAZARDOUS WASTE—~~
- ~~(1) Municipal or agricultural waste which because of its quantity, concentration, physical, chemical or infectious characteristics may:~~
- ~~(a) Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population.~~
- ~~(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.~~
- ~~(2) The term does not include point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or by-product material as defined by the U.S. Atomic Energy Act of 1954, as amended.~~
- ~~E.— MUNICIPAL WASTE—Garbage, refuse, industrial lunchroom or office waste or other material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities; and sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.~~
- ~~F.— RESIDUAL WASTE—Garbage, refuse or other discarded material or waste including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous.~~
- ~~G.— SOLID WASTE—Waste, including municipal, residual or hazardous waste.~~

~~§ 285-179. Permitted uses. [Amended 8-13-1998 by Ord. No. 98-4]~~

~~The following types of solid waste disposal and recycling facilities, as defined herein, may be operated in~~

~~the zoning districts where they are specified as conditional uses:~~

~~A. Solid waste disposal facilities, including incinerators, composting facilities, resource recovery facilities, salvage operations and transfer facilities, provided:~~

~~(1) Prior to the onset of operation of a solid waste disposal facility, or expansion thereof, a permit must be obtained by the applicant from the Pennsylvania Department of Environmental Protection for the operation.~~

~~(2) The Board of Supervisors and/or its authorized representatives shall, from time to time, be permitted to inspect the solid waste disposal and/or recycling facilities and operations to assure continued compliance with this article, with the expenses of inspection to be borne by the facility operator.~~

~~(3) The Board of Supervisors reserves the right to own and operate any and all solid waste disposal facilities in the Township, including the rights to:~~

~~(a) Buy and/or lease land for these purposes.~~

~~(b) Choose operators such as Township employees or authorities or by contracting with private firms or other legitimate means.~~

~~(c) Enter into agreements with adjoining communities to handle their municipal waste.~~

~~(d) Buy and/or lease equipment or contract with private firms who will provide, operate and maintain equipment for these purposes.~~

~~B. Recycling facilities, including community drop-off centers, intermediate processing centers and junkyard and material processing centers.~~

~~§ 285-180. Dimensional standards.~~

~~The following standards shall apply to all solid waste disposal facilities and recycling facilities:~~

~~A. For solid waste disposal facilities:~~

~~(1) Minimum lot size and width, exclusive of existing rights of way of public roads. Ten acres with a minimum lot width of 750 feet.~~

~~(2) Building setback from ultimate right of way, any zoning district boundary and any property boundary: 250 feet.~~

~~(3) Side or rear setback for an accessory building not associated with the operation of the solid waste facility: 100 feet.~~

~~B. For recycling facilities, lot size and width, and building setbacks in conformance with the requirements of the zoning district that permits the use.~~

~~§ 285-181. Performance standards. [Amended 8-13-1998 by Ord. No. 98-4]~~

~~In addition to complying with the regulations of the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and other applicable federal and state regulations, the following performance standards shall apply to solid waste and recycling facilities:~~

A. ~~The use shall not:~~

- ~~(1) Constitute a nuisance or damage to health or any property by reason of dissemination of noxious, toxic or corrosive fumes, smoke, odor, debris or dust in the immediately surrounding area or beyond the district boundary line.~~
- ~~(2) Result in noise or vibration clearly exceeding the average intensity of noise or vibration occurring from other causes, measured at the property line.~~
- ~~(3) Endanger surrounding areas by reason of radiation, fire or explosion.~~
- ~~(4) Discharge any untreated or incompletely treated waste into any stream; or otherwise cause or contribute to the pollution of surface or underground waters.~~
- ~~(5) Endanger the underground water level or supply for other properties.~~
- ~~(6) Create an objectionable traffic condition on the highways or in an adjacent area; or generate a nuisance to surrounding property by reason of traffic.~~
- ~~(7) Create any objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the environmental quality of the surrounding area.~~
- ~~(8) Include a municipal waste landfill unless it is a part of a solid waste disposal facility, owned and operated by Upper Frederick Township or its agent, and is used only as an accessory to dispose of ash, residues, reject material and other bypassed solid wastes as generated by a resource recovery and/or incineration facility.~~
- ~~(9) Dispose of any solid waste other than municipal waste, as defined herein, and the ash, residue, reject material and other material generated from municipal waste.~~

B. ~~Vehicle access for solid waste facilities:~~

- ~~(1) Any public road used to provide direct access to a disposal operation for routine, daily use shall be paved and maintained in good condition, in compliance with the standards of the Pennsylvania Department of Transportation, for the type of heavy trucking which are necessary for operation.~~
- ~~(2) The Board of Supervisors may designate safe and adequate access routes and prohibit the use of other roads, except for local trash pickup purposes.~~
- ~~(3) The minimum paved cartway for access roads shall be 26 feet, with four foot wide improved shoulders on both sides.~~
- ~~(4) The access driveway into the disposal facility shall be of sufficient length that stopped disposal vehicles entering the facility are not stopped along the public road outside the facility.~~
- ~~(5) The costs of upgrading and maintaining major access roads to the disposal operation shall be paid for by the disposal operation in a means suitable to the Supervisors. Assessments and/or dumping fees are examples of suitable methods.~~

C. ~~Security. The site shall be fenced and served by lockable gates for security purposes. Scavenging shall not be permitted. In addition, appropriate precaution shall be taken to prevent trash from being scattered on the site by wind or other means. Fencing, walls and other enclosures may be required for this purpose. Any scattered litter shall be collected daily and be properly disposed.~~

- ~~D.—Grading. The disposal operation site shall be graded and provided with appropriate drainage facilities to minimize run-off, prevent erosion and prevent collection of standing water, except in basins designed for that purpose.~~
- ~~E.—Screening.~~
- ~~(1) A solid waste disposal facility site, including all improvements thereon, shall be screened from view from adjoining residential or institutional uses or districts by a buffer zone of a minimum 200 feet between said site and improvements, and any adjoining property in which shall be placed a planting screen consisting of a variety of evergreen trees in a solid double row with a minimum height of nine feet so as to create a visual screening of said site and improvements from all adjoining real property, and shade trees, two inch caliper by a minimum height of eight feet, informally arranged, in a number equivalent to one tree per 50 linear feet of buffer.~~
- ~~(2) Materials collected, stored or processed at a recycling facility shall be screened from view from adjacent roads or properties by complete enclosure in a building, opaque screening by solid fencing, walls or dense vegetation, or by location on a site such that the operation is not visible or is screened by existing vegetation on the site.~~
- ~~F.—Elevation. The highest elevation of the accessory landfill shall never exceed 35 feet above the highest point of natural elevation within the landfill area of the site before the disposal operation began. Final grading of the landfill area shall be done in a manner which leaves the site potentially useful. New landscaping shall be planted to protect against erosion and improve the appearance of the land after final grading.~~
- ~~G.—Equipment housing. Equipment not in use shall be housed in onsite buildings.~~
- ~~H.—Fire safety. All buildings shall be equipped with fire and smoke detection and extinguishing facilities in compliance with the regulations of the Pennsylvania Department of Labor and Industry, the National Fire Protection Association and/or other more stringent regulations, if determined appropriate by the Board of Supervisors.~~
- ~~I.—Scales. An onsite scale shall be used to weigh all solid waste delivered to a site and accurate and complete records shall be maintained by the operator, and which records shall be available for inspection by the Board of Supervisors upon request.~~
- ~~J.—Availability of records. A certified copy of all reports, data, plans and other material or information required to be submitted to the Pennsylvania Department of Environmental Protection shall also be submitted to the Board of Supervisors.~~
- ~~K.—Tire cleaning. A tire cleaning area shall be provided on the access road within a solid waste disposal site. All tires on all trucks leaving the disposal site shall be cleaned. Runoff from the tire cleaning area shall be controlled in accordance with the provisions of the Pennsylvania Stormwater Management Regulations.~~
- ~~L.—Equipment cleaning. An equipment cleaning area shall be provided on the site. All equipment used in the disposal operation shall be cleaned daily to prevent odors and other nuisances or health hazards. All drainage from equipment cleaning area shall be managed so as to prevent water pollution, and shall be discharged to a sanitary sewer system or other facilities approved by the Board of Supervisors.~~
- ~~M.—Groundwater monitoring. At the site of a solid waste disposal facility, groundwater monitoring wells shall be required and shall be located both along the interior boundary lines of the buffer zone and~~

~~outside the boundary lines of the site as determined by the PaDEP. Copies of PaDEP monitoring reports shall be promptly provided to the Board of Supervisors. Any unsafe conditions shall be reported immediately to the Board of Supervisors.~~

- ~~N. Emergency systems. All solid waste disposal facilities, equipment and personnel shall be equipped with both an internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel, and a device immediately available at the scene of operations, such as a telephone or a handheld two way radio, capable of summoning emergency assistance from local police and fire departments.~~
- ~~O. Emergency access. A solid waste disposal facility site shall have at least one emergency access entrance, which shall be locked except when used during an emergency situation. The operator shall provide a key to this entrance to the Board of Supervisors.~~
- ~~P. Sanitary toilet facilities, as approved by the Board of Supervisors, shall be constructed and made available for use by persons on the site.~~
- ~~Q. The applicant shall demonstrate to the Board of Supervisors that:~~
- ~~(1) Adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to insure that the proposed use(s) will not be noxious, hazardous or offense as define herein.~~
 - ~~(2) The proposed use will comply with the other standards contained herein.~~
- ~~R. In order to determine that adequate safeguards are provided, the Board of Supervisors may require that:~~
- ~~(1) The applicant submit necessary information, impartial expert judgments and written assurances.~~
 - ~~(2) The applicant obtain the advice of appropriate local, state and federal agencies and of private consultants.~~
 - ~~(3) The applicant's proposed use(s) comply with such tests or provides such safeguards in addition to those listed herein, as deemed necessary by the Supervisors, upon the advice of the Township Engineer.~~

~~§ 285-182. Additional criteria for considering conditional use applications.~~

~~In addition to complying with the standards of this article and of § 285-61, herein, applications for a conditional use for solid waste disposal facilities shall provide the information, comply with the requirements, and be evaluated by the Board of Supervisors in accordance with the standards, criteria, requirements and regulations of this section.~~

- ~~A. Plan conformance. The applicant shall provide a statement identifying the relationship of the proposed use to land use plans, policies and controls for the affected area, including a statement as to how the proposed use may conform or conflict with the objectives and specific terms of existing or proposed federal, state, county and Township land use and/or solid waste plans, policies and controls, including a statement of the following:~~
- ~~(1) The primary and secondary effects of the use and its capacity to stimulate or induce changes in patterns of social and/or economic activities.~~
 - ~~(2) The impact on existing community facilities and activities, changes in natural conditions, etc.~~

- ~~B.— Separation. No land shall be actively used for solid waste disposal within 300 feet of an existing residence, or within 1/4 of a mile of an existing school or institutional zoning district. Inactive buffer and/or landscaped areas of the waste disposal site may be counted toward the total separation.~~
- ~~C.— Traffic. The existing public road system must be able to accommodate the traffic generated by the use in a safe and efficient manner. Existing residential areas shall not be infringed upon by traffic from the proposed facility. In order to fully evaluate this, the Board of Supervisors may request a traffic impact statement in accordance with the provisions of § 285-73.~~
- ~~(1)— The study must demonstrate that the proposed use will not adversely affect surrounding areas of traffic circulation generally in the Township; or else identify any traffic problems that might be caused or aggravated by the proposed use and delineate solutions to those problems. Based upon the findings of the study the Board of Supervisors may require other improvements both onsite and offsite, which would alleviate hazardous or congested situations directly attributable to the proposed development, as a condition of approval.~~
- ~~(2)— The traffic impact study shall be prepared for a study area extending a minimum of one mile on all abutting roads from the entrance of the proposed disposal facility. This area may be modified at the discretion of the Board of Supervisors.~~
- ~~D.— Environmental assessment statement. An environmental assessment statement shall be submitted to the Board of Supervisors, in accordance with § 285-57 of this chapter.~~

~~§ 285-183. Conditional use application requirements. [Amended 8-13-1998 by Ord. No. 98-4]~~

~~An application for a conditional use for solid waste disposal facilities shall contain the date, information and drawings specified herein:~~

- ~~A.— A topographical drawing, prepared by a professional engineer, registered in the State of Pennsylvania, to a scale no greater than one inch equals 100 feet, showing:~~
- ~~(1)— Locate of site relative to public roads.~~
- ~~(2)— Owners of adjacent properties.~~
- ~~(3)— Proposed fencing and improvements.~~
- ~~(4)— Proposed screening and buffering.~~
- ~~(5)— Cross sections showing the existing grades and the proposed grades upon completion and closure of the accessory landfill, if any.~~
- ~~(6)— Accessory landfill area within the site, to include staging of landfill development and the location of haul roads and access roads.~~
- ~~(7)— Location of equipment cleaning and tire cleaning areas.~~
- ~~(8)— Location of weighing scale, firefighting equipment and all facilities, including buildings.~~
- ~~B.— The names and current addresses of any and all persons who own any interest, real or equitable, in the real estate which is the subject of the application.~~
- ~~C.— The names and current addresses of any and all persons having any ownership interest in the operation of proposed operation, maintenance and use of the equipment or real estate in question.~~

- ~~D.— The names and current addresses of any and all persons having any ownership interest in any corporations or other business entities which may be set forth in Subsection B or C above, where such persons possess an ownership interest of 10% or more.~~
- ~~E.— The identities and qualifications of personnel designated to manage and operate the proposed facility, together with their intended responsibilities.~~
- ~~F.— All requirements of the Pennsylvania Solid Waste Management Act and regulations and standards of the Department of Environmental Protection relating to solid waste processing and disposal system are incorporated herein by reference, as well as any and all plans, applications, data, materials, studies and information to the Board of Supervisors as is required to be submitted to the Pennsylvania Department of Environmental Protection pursuant to said act, regulations and standards. All such materials shall be certified by the applicant to be true and correct copies of original materials filed with that Department.~~
- ~~G.— Statements indicating expected useful life of the accessory landfill site and the condition and proposed uses of said site upon termination of operation, including, but not limited to, any limitations on future uses due to decomposition gases.~~
- ~~H.— An access road survey, which shall include the following:~~
- ~~(1) Statement as to the estimated number of vehicles weighing over 20,000 pounds, loaded, which are expected to use the site on a daily basis during the first two years of operation.~~
 - ~~(2) A plan indicating all roads anticipated to be used as access roads, as defined herein.~~

ARTICLE XXII RESERVED**Oil and Gas Well Drilling and Operating****§ 285-184. Legislative intent.**

~~To establish reasonable and uniform regulations, limitations, safeguards and controls for present and future operations related to exploring for, drilling for and the development, production, transportation and/or storage of oil, gas and other hydrocarbon substances within the Township; and to define the responsibility for compliance with this article, so that such activities may be conducted in harmony with other uses of land, thus protecting Township residents in the enjoyment and use of their property and providing for the public health, safety and general welfare.~~

§ 285-185. Definitions. [Amended 8-13-1998 by Ord. No. 98-4]

~~The terms uses in this chapter shall, unless the context indicates otherwise, have the respective meanings herein set forth:~~

~~APPROVED TYPE AND APPROVED DESIGN—Improvements, equipment or facilities of a type or design approved by the Commission, Fire Department or Township Engineer.~~

~~BLOWOUT—A sudden or violent escape of oil or natural gas, as from a drilling well when high formational pressure is encountered.~~

~~BLOWOUT PREVENTER—A mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing including valves, fittings and control mechanisms connected therewith or a heavy casinghead control fitted with special gates or rams which can be closed around the drill pipe, or other tubular goods which completely closes the top of the casing and is designed for preventing blowout.~~

~~BUREAU—The Bureau of Oil and Gas Management, Department of Environmental Protection, or the Oil and Gas Division of the Department.~~

~~CASINGHEAD GAS—Any gas or vapor, or both gas and vapor indigenous to an oil stratum and produced from such stratum with oil.~~

~~CASING—A string or strings of pipe commonly placed in wells drilled for natural gas or petroleum.~~

~~CELLAR—An excavation around and above the top joint of the casing of a well.~~

~~COMMISSION—The Oil and Gas Conservation Commission of the Commonwealth of Pennsylvania.~~

~~CONDENSATE—Liquid hydrocarbons which were originally in the gaseous phase in the reservoir.~~

~~CORRELATIVE RIGHTS—The rights of each owner of oil and gas interest in a common pool or source of supply of oil or gas to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool or sources of supply without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent.~~

~~COMPLETION OF DRILLING, REDRILLING AND REWORKING—Completion, for the purpose of this chapter, 30 days after the drilling, redrilling or reworking crew has been released through completion of its work or released by those employing said crew.~~

~~DERRICK—Any portable framework, tower, mast or structure which is or are required or used in connection with drilling reworking, operating or maintaining a well for the production of oil, gas or other hydrocarbons from the earth.~~

~~DESERTION—The cessation of operation at a drill site without compliance with the provisions of this~~

~~chapter relating to suspended operations, idle wells or abandonment.~~

~~DRILLING—Digging or boring a new well for the purpose of exploring for, developing or producing oil, gas or other hydrocarbons or for the purpose of injecting gas, water or any other fluid or substance into the earth.~~

~~DRILLING EQUIPMENT—The derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected, or maintained for use in connection with drilling.~~

~~DRILL SITE—The premises used during the drilling or reworking of a well or wells located thereon.~~

~~DRILLING UNIT—Includes spacing unit and shall mean the are designated in a spacing order as a unit or as designated by a drilling or unitization agreement and within which all operators have the opportunity to participate in the well or wells drilled thereon on a just and equitable basis.~~

~~FIRE DEPARTMENT—Any fire department, whether voluntary or otherwise, which has jurisdiction over any premises falling within the confines of this chapter.~~

~~FLUIDS—Any gas or liquid.~~

~~GAS—Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions. It shall also mean all natural gas and all other volatile hydrocarbons not herein defined as oil, including condensate because it was originally in a gaseous phase in the reservoir and shall include the gaseous components occurring in or derived from petroleum or natural gas.~~

~~GAS WELL—Any well drilled or to be drilled or used for the intended or actual production of natural gas.~~

~~IDLE WELLS—Whenever any oil well fails to produce at the quarterly rate of 20 barrels of crude oil or other hydrocarbon substances or at quarterly rate of 100,000 cubic feet of gas for sale, lease or storage for two successive calendar quarters, such well shall be classified as "idle."~~

~~LEASEHOLD ESTATE—A tract or tracts of land which by virtue of an oil and gas lease, fee or ownership, constitutes a single tract for the purpose of the development or operation thereof for oil or gas or both.~~

~~LESSEE—The person who has executed an oil or gas lease or sublease, or the owner of the land or minerals, or his heirs, executors, administrators or assigns or one who conducts or carries on any oil or gas exploration, development or operation thereof, or any person so operating for himself or others.~~

~~NEW WELL—A new well bore or new hole established at the ground surface and shall not include redrilling or reworking of an existing well which is not abandoned.~~

~~NONPARTICIPATING OPERATOR—Any operator who owns an interest in land included in a spacing unit, and who has not elected to participate in the drilling, equipping, completing and operating the well or wells to be drilled on such unit, and to share in the costs of the same.~~

~~OIL—Crude petroleum oil and all other hydrocarbons regardless of gravity produced at a well in liquid form by ordinary production methods but does not include liquid hydrocarbons which are originally in a gaseous phase in the reservoir.~~

~~OIL OPERATION—The construction, use or maintenance of any installation, facility or structure used, directly or indirectly, to carry out or facilitate one or more of the following functions: exploring, drilling, redrilling, development, reworking and repair, production, processing, extraction, enhanced recovery, stimulation, abandonment, storage or shipping of oil or gas from these subsurface of the earth.~~

~~OIL OPERATION SITE—The physical location where oil operations are conducted.~~

~~OIL WELL—Any well drilled, to be drilled or used for the intended or actual production of a liquid petroleum or petroleum products or for the intended or actual disposal of waste liquids, including solutions and liquids containing solids in suspension produced from any such well.~~

~~OPERATOR—Any owner of the right to develop, operate and produce oil and gas from the pool or any person drilling, maintaining, operating, pumping or in control of any well. However, if the operator, as herein defined, is different from the lessee under an oil or gas lease or any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no oil or gas lease in existence the owner of the fee estate in the premises shall also be deemed an operator. In the event that the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as operator as to such pool.~~

~~OUTER BOUNDARY LINE—Where several contiguous parcels of land in one or different ownership are operated as a single oil or gas lease or operating unit, the term "outer boundary line" shall mean the exterior limits of the land included in the larger unit. In determining the contiguity of any such parcel of land, no street, road or alley lying within the lease or unit shall be deemed to interrupt such contiguity.~~

~~OWNER—A person who owns the legal or equitable title in and to the surface of the drill site or oil operation site.~~

~~PARTICIPATING OPERATOR—Any operator who own an interest in land included in a spacing unit, and who has elected to participate in the drilling, equipping, completing and operating the well to be drilled on such unit, and to share the costs of the same.~~

~~PERMIT—A drilling permit issued or sought to be issued under this chapter, authorizing the drilling of an oil well or gas well or other oil operations as herein defined.~~

~~PERSONS—Includes both the singular and the plural and shall mean any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind and includes any department, agency or instrumentality of the commonwealth, or any governmental subdivision thereof.~~

~~PERMITTEE—The person to whom is issued a permit authorizing the oil operations which are the subject matter of this chapter, and his or its administrators, executor, heirs, successors and assigns.~~

~~POOL—An underground reservoir containing a common accumulation of oil and gas or both not in communication laterally or vertically with any other accumulation of oil or gas.~~

~~PROCESSING—The use of oil operations for gauging, recycling, compressor repressuring, injection, reinjection, dehydration, stimulation, separation (including, but not limited to, separation of liquids from gas), shipping and transportation, and gathering oil, gas, other hydrocarbon substances, water or any combination thereof.~~

~~PRODUCER—The owner of the well or wells capable of producing oil or gas or both.~~

~~REDRILL—Recompletion of an existing well by deepening or sidetrack operations extending more than 150 feet from the existing well bore.~~

~~REWORKING—Recompletion of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than 150 feet from the existing well bore, or replacement of well liners or casings.~~

~~RIGHT OF WAY—Public rights of way including streets, easements and other property within the Township and which is dedicated to the use and benefit of the public.~~

~~ROYALTY OWNER—Any owner of oil or gas in place or oil or gas rights subject to a lease covering such oil or gas in place or oil and gas rights. Royalty owner also means any owner of an interest in an oil or gas such lease or the proceeds therefrom without obligating him to pay any costs under such lease. Royalty owner shall also mean the owner of any interest of the oil or gas in place or oil or gas rights who has not executed an oil or gas lease to the extent that such owner is not designated an operator.~~

~~SHUT-IN WELL—A well capable of producing in excess of the minimum requirements for an idle well, but which is not placed into production due to lack of market.~~

~~SURFACE OF IGNITION—Any flame, arc, spark or heated object or surface capable of igniting liquids, gases or vapors.~~

~~STORAGE RESERVOIR—That portion of any subterranean sand or rock stratum or strata into which gas is or may be injected for the purpose of storage or for the purpose of testing whether said stratum is suitable for storage.~~

~~SUMP OR SUMP PIT—An earthen pit lined or unlined for the discharge of oil field wastes.~~

~~TANK—A container, covered or uncovered, used in conjunction with the drilling or production of oil, gas or other hydrocarbons for holding or storing fluids.~~

~~TECHNICAL ADVISOR—Such person familiar through experience in, exposure to, or education in oil and gas well operations as may be retained from time to time by the Township.~~

~~TECHNICAL OR OIL AND GAS INDUSTRY WORDS OR PHRASES—Used herein or not specifically defined herein shall have that meaning customarily attributable thereto by reasonable and prudent operators in the oil and gas industry.~~

~~WASTE—The following shall be considered "waste":~~

~~A.—Physical waste as the term is generally understood in the oil and gas industry, which includes the following:~~

~~(1)—Permitting the migration of oil, gas or water from the stratum in which it is found to other strata if such migration would result in a loss of recoverable oil or gas or both.~~

~~(2)—The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities except for secondary recovery purposes or in hydraulic fracturing or other completion practices.~~

~~(3)—The unnecessary and excessive surface loss or destruction of oil or gas.~~

~~(4)—The inefficient or improper use, or unnecessary dissipation of reservoir energy.~~

~~B.—The drilling of more wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool.~~

~~WELL—A hole or holes, bore or bores, to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water or for use as an injection well for secondary recovery, disposal or any of them.~~

~~WELL SERVICING—The maintenance work performed within any existing well bore which does not involve drilling, re-drilling or reworking.~~

~~§ 285-186. Use regulations.~~

~~A.—Oil and gas wells and the drilling of such wells as permitted in all zoning districts provided they~~

~~comply with all of the requirements of this chapter.~~

~~B. In conjunction with and during drilling operations, trailers shall be permitted at the drilling site for the following temporary uses:~~

~~(1) Offices.~~

~~(2) Laboratory.~~

~~(3) Living quarters.~~

~~§ 285-187. General provisions.~~

~~A. Administration. The Township Zoning Officer, or his duly appointed representative, is hereby authorized and directed to enforce the provisions of this article.~~

~~B. Right of entry. Whenever necessary to enforce any of the provisions of this article, or whenever the Township Zoning Officer has reasonable cause to believe that there exists in any building or upon any premises any condition contrary to the provisions of this article, the Township Zoning Officer and/or a Township appointed technical advisor may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Township Zoning Officer by this article. If such entry is refused, the Township Zoning Officer shall have recourse to every remedy provided by law and equity to secure entry. No owner or occupant or any other persons having charge, care, custody or control of any building or premises shall fail or neglect, after proper demand, to permit prompt entry therein by the Township Zoning Officer, or his representative, for any purpose pursuant to this article.~~

~~C. Agent. Every operator and/or lessee of any well shall designate himself or an agent or agents, who is a resident of the Commonwealth of Pennsylvania, upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Upon application for a permit hereunder, such operator and/or lessee shall notify the Township Secretary of the name and address of said agent and shall within 10 days notify the Township Secretary in writing of any change in such agent or such mailing address unless operations within the Township are discontinued.~~

~~D. Notice. Every person who acquire any well, property or site upon which operations which are the subject matter of this chapter exist, whether by purchase, transfer, assignment, lease, conveyance, exchange or otherwise, shall within 10 days after acquiring such well, property or site, notify the Township Secretary in writing of such acquisition. The notice shall contain the following:~~

~~(1) The name and address of the person acquiring such well, property or site.~~

~~(2) The name and location of the well, property or site.~~

~~(3) The date of acquisition.~~

~~(4) A description of the properties and equipment acquired; including a plot plan of the well, property or site.~~

~~(5) The name and address of any person designated to receive service of notice.~~

~~E. Transfer of operator. The operator of every well shall notify the Township Secretary in writing of the transfer to another operator of such well for any purpose. Within 10 days after such transfer by reason of sale, assignment, transfer, conveyance or exchange, said notice shall be given and shall contain the following:~~

- ~~(1) The name and address of the person to whom such well was sold, assigned, transferred, conveyed or exchanged.~~
- ~~(2) The name and location of the well, property or site.~~
- ~~(3) The date of sale, assignment, transfer, conveyance or exchange.~~
- ~~(4) The date when possession was relinquished by the former operator.~~
- ~~(5) A description of the properties and equipment transferred including a plot plan of said property.~~

~~§ 285-188. Permit required.~~

~~It shall be unlawful and a violation of this chapter for any person to commence oil operations or to explore for oil and gas or drill, redrill, deepen, rework, activate or convert any well within Upper Frederick Township without a permit having been issued in accordance with the terms of this chapter. No permit shall authorize the drilling, redrilling, deepening, reworking, activating or converting of more than one well. A well shall be deemed to be drilled, redrilled, deepened, reworked, activated or converted within the Township when it is to be located on property within the Township that is to be used for the production of the well or when lands within the Township are made part of a pool drilling unit, or are subject to unitization agreement.~~

~~§ 285-189. Procedure for permit application review. [Amended 8-13-1998 by Ord. No. 98-4]~~

~~Any person desiring to drill or operate an oil or gas well in the Township shall make a permit application pursuant to this article.~~

- ~~A. If the application meets the requirements of this article a permit will be issued to the operator of the well drilling operation. This permit shall be prominently displayed at the well or well drilling site at all times.~~
- ~~B. No permit will be issued unless the provisions of this article and the provisions of all the pertinent laws of the Commonwealth of Pennsylvania which are applicable to the operation or drilling or abandonment of oil or gas wells are met.~~
- ~~C. The permit application will be reviewed by the Township Board of Supervisors at a public meeting to be scheduled no more than 60 days after the permit application is filed. After this review, the Board will make its recommendation to the Zoning Officer.~~
- ~~D. At least 30 days prior to the public meeting, the Township Secretary will submit a copy of the application, along with all supporting documents, to the Township Planning Commission for their review and recommendation.~~
- ~~E. The Township shall give notification of the public meeting according to § 285-32 of this chapter.~~
- ~~F. At least 30 days prior to the public meeting, the Township Secretary will submit a copy of the DEP approved erosion and sedimentation control plan and the rehabilitation reclamation plan to the Township Engineer for his review and recommendation; the Township, at its discretion, shall also submit, at least 30 days prior to the public meeting, the erosion and sedimentation control plan, along with all supporting documents to the Montgomery County Planning Commission (MCPC), Soil Conservation Service, or any other technical agency for their review and recommendation.~~
- ~~G. A separate application and supporting papers as hereinafter set forth in § 285-190 shall be submitted~~

~~for each well proposed to be drilled.~~

~~H.—The Township Zoning Officer, after considering the recommendations of the Board of Supervisors, shall issue or deny the permit within 15 days of the public meeting.~~

~~I.—Should the application be rejected, the filing fee shall in any event be retained by the Township.~~

~~J.—The permit issued pursuant to this section shall entitle the applicant to drill the well as applied for.~~

~~§ 285-190. Permit applications. [Amended 8-13-1998 by Ord. No. 98-4]~~

~~Every application for a permit required pursuant to this chapter shall be in writing, signed by the operator or some person duly authorized to sign on his behalf; and it shall be filed with the Township Secretary. A separate application shall be made for each well to be drilled, redrilled, reworked, converted or activated and shall be accompanied by the application fee. The application shall include the following information:~~

~~A.—The date of the application.~~

~~B.—A legal description of the property.~~

~~C.—The name and address of the operator.~~

~~D.—A plot plan (three copies) which shall show the following:~~

~~(1) Proposed locations of all oil facilities on the oil operation site including, but not limited to, locations of the wells to be drilled, fractured, shot or produced together with locations of storage tanks, access roads, dikes, pipeline, compressors, separators, storage sheds and trailers.~~

~~(2) Name and address of the assessed owner of the surface rights, owner of the oil and gas rights, the oil and gas lessee, if any, and of the driller.~~

~~(3) Topographical lines and floodplain areas.~~

~~(4) Title, scale, north arrow, tax parcel number and date.~~

~~(5) The location of and name or number of private access roads, and abutting streets and highways, occupied residences and commercial structures within 500 feet of the well; the location of all churches, hospitals, rest homes, schools, preschools, nurseries and places of public assembly within 500 feet of the well; all property lines, setback lines, building locations and water well locations on the subject tax parcel and all adjoining tax parcels and the location of all sewage systems on the subject tax parcel and all adjoining tax parcels.~~

~~(6) The ownership of adjacent properties and a location of buildings on adjacent properties.~~

~~(7) The location of all watercourses and boundaries of floodplain as defined by Article XVI of this chapter within 1,000 feet of the well. The location of all water wells within a one thousand foot radius of the proposed well which have not been previously located pursuant to Subsection D(5), above.~~

~~(8) Type of derrick, if any, to be used including the height thereof.~~

~~(9) Proposed route of ingress and egress to the proposed oil operations site.~~

~~(10) Copies of all permits and applications for permit obtained pursuant to the Oil and Gas Conservation Law of the Commonwealth of Pennsylvania, 58 P.S. § 401 et seq., and/or the Gas~~

~~Operations Well Drilling Petroleum and Coal Mining Act of the Commonwealth of Pennsylvania, 52 P.S. § 2101 et seq., if applicable, as well as the DEP approved erosion and sedimentation control plan.~~

~~(11) Landscape concept plan which meets the requirements of this chapter.~~

~~(12) A statement signed by the operator or applicant under penalty of perjury declaring that if an applicant is duly authorized to sign on behalf of the operator and file the application, and that the information contained in the application is true and correct.~~

~~E. There shall be submitted with all applications for a permit two copies of the rehabilitation reclamation plan. If the information required for the rehabilitation reclamation plan is included in the DEP approved erosion and sedimentation control plan, a separate rehabilitation reclamation plan is not required. This plan must be put into execution within six months of the cessation of active drilling, fracturing or shooting of oil or gas wells, or the active removal of soil or gas, unless a new plan to restart these activities is submitted to the Township Secretary within six months of the date of cessation of activity at the site. The rehabilitation reclamation plan must contain the following information:~~

~~(1) Location, dimensions and names of all trees, shrubs and ground cover which shall be planted to control soil erosion from wind and water.~~

~~(2) The method to be used in restoring ground level and topsoil depths to the original status on work areas, access roads and pipelines.~~

~~(3) The method and procedure to be used in plugging abandoned wells in accordance with this chapter or state regulations.~~

~~(4) The removal procedure for all stock piles, equipment, buildings, pipelines and fences.~~

~~(5) The application for permit shall also indicate the following:~~

~~(a) The method of transportation of all oil and/or gas from the well including, but not limited to, type of vehicle, capacity of tanker and route from drill site or route of pipeline, etc.~~

~~(b) The method in which records shall be kept on the drilling operation and also on the production operation of the well. The location of such records and a certification that the Township Secretary may have access to such records upon reasonable notice.~~

~~F. Water analysis report. Each application for a permit shall be accompanied by a water analysis report indicating the water quality of the area within a one thousand five hundred foot radius of the well site, which must be established prior to drilling, during drilling, during production and/or after abandonment. The water standards used shall be the United States Government EPA standards for primary drinking water Document #EPA 570/76-003; and, the secondary drinking water standards of the Congressional Federal Register of 7-19-1979 40 CFR, Part 143. The report shall contain the following information:~~

~~(1) The names and addresses of all water well owners within a one thousand five hundred foot radius of the oil or gas well, who must be contacted by certified return receipt mail. Each such owner shall be offered the opportunity to have their water tested for the primary and secondary EPA standards as described above. The name, address and telephone number of the water testing laboratory with which the operator has a contact must be provided the water well owner and the Township. Water quality tests must be run by the applicant/operator prior to drilling, every 15~~

~~days after drilling starts and every six months after production or while waiting for production, and six months after the well is abandoned and the rehabilitation and reclamation has been completed. Any well owner who has not contacted the water testing laboratory within two weeks of receiving the certified mail is considered to not wish to participate in the water testing program. The cost of the water testing shall be borne by the oil well drilling operator making this application. A copy of this chapter must be included in the certified letter to the water well owner. The results of the mailing showing returned receipt cards and those well owners who requested well tests along with the initial results of those test must accompany the well permit applications. Those persons not requesting water tests must be listed by the applicant/operator and their return receipt cards must be submitted with the application.~~

- ~~(2) All year round streams within a 1,500 foot radius of the well site must have both EPA primary and secondary drinking water standards test completed; the results of which shall be submitted with the permit application, and shall have the same periodic testing as outlined in Subsection F(1), above.~~
- ~~(3) Should there be no well within a 1,500 foot radius of the oil well drill site, then a monitor water well must be drilled by the applicant/operator of the site and within 300 feet of the oil well site. The well must be drilled to a depth of at least 90 feet and must be the first strata to establish a continuous flow of water of _____ gal/hr for a period of _____ hours. Primary and secondary water standards tests must be performed for this water well as described for the private wells in Subsection F(1), above.~~
- ~~(4) The results of all water tests shall be kept on file with the application for the oil well drilling permit. If the water quality of any tested well is deemed to be adversely affected by the drilling and/or pumping operation, then that oil or gas shall be subject to the suspension of operation as established in this chapter.~~

~~§ 285-191. Bonds, letters of credit, indemnity and insurance.~~

~~A. Irrevocable letter of credit and indemnity bond. Prior to the issuance of a permit for the commencement of operations, drilling, re-drilling, deepening, reworking, converting or activating a well, the operator (and driller, if requested by the Township) shall provide the Township with an irrevocable letter of credit or indemnity bond, or certificate of deposit or cash and certificate of insurance as follows:~~

- ~~(1) An irrevocable letter of credit or indemnity bond in the principal sum of such amount to be determined by the Board of Supervisors of Upper Frederick Township but not less than \$50,000. The letter of credit or bond shall be executed by a reliable banking institution or insurance company authorized to do business in the Commonwealth of Pennsylvania, with the operator and/or driller as principal, running to the Township for the benefit of the Township and all persons concerned, conditioned that the operator and/or driller will comply with the terms and conditions of this chapter.~~
- ~~(2) Such letter of credit or bond shall become effective on or before the date it is filed with the Township and remain in force and effect for at least a period of three years subsequent to the expiration of the term of the permit issued; and in addition, the bond will be conditioned that the operator and/or driller will promptly pay all legally imposed fines, penalties and other assessments imposed upon operator and/or driller by reason of his breach of any of the terms, provisions and conditions of this chapter and that the operator and/or driller will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the~~

~~operations and will after abandonment, or completion, grade, level and restore such property to the same surface conditions as nearly as possible as, existed when operations were first commenced and that the operator and/or driller will defend, indemnify and hold the Township, its officers, agents and employees harmless from any and all liability growing out of or attributable to the granting of such permit regardless of whether the liabilities caused in part by the Township, its officers, agents or employees or any of them. If, at any time, the Board of Supervisors shall deem an driller or operator's bond or letter of credit to be insufficient for any reason, it may require the operator and/or driller to file a new bond or increase the amount of such letter of credit.~~

- ~~(3) Whenever the Township finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice thereof shall be given to the operator. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Township to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing thereupon shall pay over to the Township 125% of the estimated cost of doing the work as set forth in the notice. The Township shall be authorized to draw against any irrevocable letter of credit which covers the oil operation site. Upon receipt of such monies, the Township shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of this article or the Commission, such additional money may be demanded from the operator as is necessary to restore the drill site in conformity with the regulations of this article. In the event that any letter of credit is drawn upon, the operator shall be required to post a new letter of credit in an amount to be determined by the Board of Supervisors prior to commencement of any further work on the drilling site.~~
- ~~(4) In the event the operator does not cause the work to be performed and fails or refuses to pay over to the Township the estimated cost of the work to be done as set forth in the notice, or the bank refuses to honor any draft by the Township against the applicable bond or irrevocable letter of credit, the Township may proceed to obtain compliance and abate default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. The posting of the letter of credit and/or the drawing upon same by Township shall in no manner be construed as a liquidated damage amount and the operator shall remain liable to Township in such amounts as may be necessary to obtain compliance and abate the default hereunder.~~
- ~~(5) When the well or wells, covered by said irrevocable letters of credit, have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the Bureau and notice to that effect has been received by the Township or upon receipt of a satisfactory substitute, the irrevocable letter of credit issued in compliance with these regulations shall be terminated and canceled.~~

~~B. Insurance. In addition to the letter of credit required pursuant to this chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in the Commonwealth of Pennsylvania, such policy or policies in the aggregate shall provide for the following minimum coverages:~~

- ~~(1) Standard comprehensive general liability covering the surface property owner, oil and gas owner, oil and gas lessee, operator and Township including coverage for premises, operations, blowout or explosion, products completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors and personal injury. A~~

~~certificate of insurance shall be given for the Township naming all of the above as insured.~~

~~(a) Bodily injuries \$500,000 each occurrence, \$1,000,000 aggregate.~~

~~(b) Property damage \$500,000 each occurrence, \$1,000,000 aggregate.~~

~~(2) Standard comprehensive form of automobile liability, including coverage for owned, hired and nonowned vehicles:~~

~~(a) Bodily injury (each person): \$300,000.~~

~~(b) Bodily injury (each accident): \$1,000,000.~~

~~(c) Property damage: \$250,000 each occurrence.~~

~~(3) Excess liability (Umbrella Form) \$5,000,000, in excess of primary insurance.~~

~~(4) Worker's compensation in the statutory amount and employer's liability \$100,000 each accident.~~

~~(5) The insurance policies set forth in Subsection B, above, shall provide that they shall not be canceled without prior written notice to the Township Secretary at least 30 days prior to the effective date of such cancellation or such other time period as may be agreed upon by the Township Board of Supervisors.~~

~~(6) In the event such insurance policy or policies are canceled, the permit granted shall terminate on such date of cancellation and the operator's right to operate under such permit shall cease until the operator files additional insurance as provided herein.~~

~~C. Certificate of deposit. The operator may substitute a certificate of deposit in lieu of the irrevocable letter of credit or indemnity bond set forth herein above upon the following conditions:~~

~~(1) Such certificate of deposit shall be in such amount which shall be equal or greater than the amount of the irrevocable letter of credit or indemnity bond.~~

~~(2) Such certificate of deposit shall be issued by a bank, selected by the operator in Montgomery County, Pennsylvania, and shall be payable to the order of the bank (however, accrued interest thereon shall be payable to the operator and the bank shall be so instructed).~~

~~(3) Such certificate of deposit shall be delivered to the bank and evidence of the receipt thereof by the bank shall be submitted to the Township Secretary.~~

~~(4) Such certificate of deposit shall be governed by the same terms and conditions as irrevocable letters of credit as set forth in this chapter and bank shall be so instructed.~~

~~§ 285-192. Permits.~~

~~A. Permit issuance. When a permit application has been reviewed by the Township and meet the requirements of this article, the Zoning Officer shall, upon receipt of the permit application and filing fees, issue a permit for the exploration for oil and gas or for drilling, redrilling, deepening, reworking, activating or converting of a well. Such permit shall constitute sufficient authority for exploration, drilling, redrilling, deepening, reworking, activating, converting, operation, production, gathering of production, maintenance, repair, testing, plugging and abandonment of the well, and for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines on the oil operations site by the permittee; provided;~~

~~however, that a permit shall be renewed before such well may be reworked for purposes of redrilling, deepening or converting such well to a depth or use other than that set forth in the current permit for such well. Such to Subsection B, a permit shall be valid for one year from the date of issuance.~~

- ~~B.— Permit utilization. No permit issued hereunder shall be valid unless utilization of the privileges granted thereby be commenced within 180 days from and after the date of issuance of the permit, or if after commencement, such activity is suspended or abandoned at any time for a period of 180 days.~~
- ~~C.— Application and permit fees. Any application for a well permit will be accompanied by a filing fee. This fee is nonrefundable. Also, a separate permit fee shall be required before the permit will be issued. The amounts of these fee shall be set by a resolution of the Board of Supervisors.~~
- ~~D.— Annual renewal of permit. The Township Zoning Officer, along with the Township Engineer or other Township representative, shall inspect annually, and at such other times as the Township shall deem necessary, each producing well, shut in well and suspended or idle well or any well deemed idle by this chapter for the purpose of ascertaining whether the well is being operated or maintained within the standards of this chapter. On the first day of September next after the issuance of a permit for drilling, redrilling, reworking, activating or converting; on the first of September each year thereafter until the well has been abandoned, as provided in this article, an annual renewal of the permit shall be obtained from the Township for each and every well, including injection wells.~~
- ~~E.— Annual renewal of permit additional requirements:~~
- ~~(1) Fencing. An annual renewal of the permit shall not be approved for any well which is not enclosed by a fence which conforms to the specifications herein set forth.~~
 - ~~(2) Landscaping. An annual renewal of the permit shall not be issued for any well which has not been landscaped to conform to the requirements of this chapter.~~
- ~~F.— New permit required for activation. No person shall activate or put into production any oil or gas well that is an idle well pursuant to this chapter, or any well whose drill site has been cleaned and restored in accordance with this chapter, or any shut in well that does not have a currently valid drilling permit, unless an activation permit has been first obtained pursuant to the provisions of this chapter.~~
- ~~G.— Assignment of permit. Any permit issued pursuant to this chapter shall not be assigned, conveyed, sold, pledged or transferred. Any assignment, conveyance, sale, pledge or transfer of any permit issued pursuant to this chapter shall be void ab initio and shall void the permit.~~
- ~~H.— Persons liable for fees. Each of the persons whose duty is to obtain any permit shall be declared and made to be jointly and severally liable for the payment of the fees required to be paid.~~
- ~~I.— Violation of chapter. The Township shall consider any of the following a violation of this chapter (in accordance with Article II of this chapter):~~
- ~~(1) A permittee has failed, neglected or refused to perform, comply with and abide by any of the conditions of the permit.~~
 - ~~(2) That permittee has failed, neglected or refused to comply with or abide by, or has in any way violated any of the provisions of this chapter, or of any other ordinances of the Township, or any other rule, order or regulation either directly or indirectly, by reason of or in connection with or incidental to his conduct of oil operations.~~
 - ~~(3) If any of the permittee's operations or the continuance thereof upon the premises covered by~~

~~there permit are a menace or hazard to the public or private property, or to any interest of the Township, or to the lives or safety of persons in the Township.~~

- ~~(4) Any of the permittee's operations or the continuance thereof upon the premises covered by the permit constitutes a public nuisance.~~
- ~~(5) If permittee shall have made any willful misrepresentation of fact in any application for any such permit or in any report or record required by this chapter to be filed or furnished by the permittee.~~

~~§ 285-193. Criteria.~~

~~The following criteria shall be met before a permit will be issued:~~

~~A.—Derricks.~~

- ~~(1) All derricks and portable masts used for drilling, redrilling, deepening or reworking shall meet the standards and specifications of the American Petroleum Institute as they presently exist or may be amended hereafter.~~
- ~~(2) All drilling, redrilling, deepening or reworking equipment shall be removed from the oil operation site within 30 days following the completion of drilling, redrilling, deepening or reworking unless otherwise permitted by the Commission or Township Board of Supervisors.~~

~~B.—Well setbacks. It shall be unlawful to drill any well, the center of which at the surface of the ground is located:~~

- ~~(1) Within 330 feet of the nearest outer boundary of the lease unit or drilling unit or within 200 feet from the boundary of any property which is not under lease by way of a surface or subsurface lease agreement.~~
- ~~(2) Within 25 feet from any oil storage tank, or source of ignition.~~
- ~~(3) Within 200 feet of any ultimate right of way of any public street, road or highway or future street.~~
- ~~(4) Within 500 feet of any building used as dwelling, place of public assembly, institution or school unless written permission is provided by the owner of the structure.~~
- ~~(5) Within 200 feet of a stream, spring, body of water or other natural watercourse, floodplain as defined in this chapter.~~
- ~~(6) Within 200 feet of any private or public water well.~~
- ~~(7) Within 300 feet of any nonresidential structure, unless written permission is provided by the owner of the structure.~~
- ~~(8) Within 100 feet of a cemetery.~~

~~C.—Additional safety regulations. Property owners, operators, lessees, their agents, servants, contractees and employees and all other persons drilling, fracturing, shooting or otherwise treating under explosive or high pressure conditions, oil and gas wells or engaged in the production of oil or gas, or both, shall at all times observe and comply with the following conditions:~~

- ~~(1) All electrical equipment used in and about the operation of an oil or gas well shall be installed~~

~~in accordance with accepted trade practices and all applicable state and Township regulations.~~

- ~~(2) In the event any tank is located within 500 feet of a residence, or place of public assembly, a fire bank constructed of earth or other suitable material shall be built and maintained around said tank to contain excess oil in case of spillage, fire or other emergency. The pit established shall have a minimum capacity equal to 150% of the tank capacity.~~
- ~~(3) A property lined slush pit shall be maintained to collect the tank drainage or drawoff.~~
- ~~(4) A flare, if any, shall be at least eight feet in height, properly supported and shall be equipped with a windproof flare burner.~~
- ~~(5) Where multiple tanks are used, they shall be connected in tandem.~~
- ~~(6) All tank manholes shall be completely closed, locked and maintained in safe condition. All tanks shall be provided with adequate emergency venting.~~
- ~~(7) During drill in fracturing processes and completion, no person not authorized by the driller, operator or contractor shall be allowed on the drill site.~~
- ~~(8) Appropriate fencing as set forth herein below shall be maintained at all times.~~
- ~~(9) Well location shall be maintained in an orderly manner.~~
- ~~(10) No vehicle shall load oil from a storage tank while parking within a public highway right of way.~~

~~D. Lights. No person shall permit or allow any lights located on any oil operation site to be directed in such a manner so that they shine directly on adjacent property or property in the general vicinity of the oil operation site. Drilling derricks or towers shall have aircraft warning lights which meet all applicable Federal Aviation Administration regulations.~~

~~E. Signs. A sign shall be prominently displayed and maintained in good condition near or on the pumping unit or fence of each well, whether producing or not. Such sign shall be of durable material and, unless otherwise required by the Commission, shall have a surface area of not less than two square feet nor more than four square feet and shall be lettered with the following:~~

- ~~(1) Well name and number.~~
- ~~(2) Name of operator.~~
- ~~(3) Telephone numbers of two persons responsible for said well who may be contacted in case of an emergency. In the event the drill site or leasehold is fenced it shall be sufficient if all entrances to said drill site or leasehold are posted with a sign.~~

~~F. "No smoking" signs. "No smoking" signs of a durable material shall be posted and maintained in all locations approved or designated by the chief of the fire department. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background.~~

~~G. Waste removal. Rotary mud, drill cuttings, brine, oil or liquid hydrocarbons and all other oil field waste derived or resulting from, or connected with the drilling, redrilling, deepening or reworking of any well, shall be discharged into a portable steel tank. Unless otherwise directed by the Bureau, waste materials shall be removed from the operation site within 30 days from and after completion of drilling. No waste shall be disposed of in Upper Frederick Township.~~

- H. ~~Unlined slush, sump, sump pits or skim ponds prohibited. No person shall own, operate, have possession of, be in control of, or maintain any well site, former well site or property on which an unlined slush, sump or sump pit or skim pond is located. The provisions of this section shall not apply to portable sump tanks.~~
- I. ~~Access driveways and drill sites. Prior to the commencement of any drilling operations, all access driveways used for access to the drill site and the drill site itself shall be surfaced with crushed rock, gravel or ore, and shall be oiled and maintained to prevent dust and mud. In particular cases, these requirements governing surfacing of access driveways may be altered at the discretion of the Board of Supervisors after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operator; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.~~
- J. ~~Blowout prevention. In all cases, protection shall be provided to prevent blowout during oil operations as required by and in conformance with the requirements of the Bureau.~~
- K. ~~Fences. Prior to the commencement of and during all operations, all oil operation sites and individual drill sites shall be completely enclosed by a chain link fence, masonry wall or other approved fencing material according to one of the following requirements:~~
- ~~(1) The fence fabric shall be at least six feet in height.~~
 - ~~(2) Support posts shall be set in concrete and shall be embedded into the ground to a depth sufficient to maintain the stability of the fence.~~
 - ~~(3) The chain link fabric shall be galvanized steel wire with a minimum plating of 1.2 ounces of zinc per square foot of subsurface area or shall be coated with vinyl or plastic material, approved by the chief of the fire department.~~
 - ~~(4) The chain link fence fabric shall have a minimum thickness of 11 gauge.~~
 - ~~(5) The chain link fence fabric shall be two inch mesh; provided, however, 3 1/2 inch mesh may be used on any fence where the fabric is interwoven with artificial screening material approved by the chief of the fire department.~~
 - ~~(6) Post and rails shall be standard galvanized, welded pipe, schedule 40 or thicker; provided, however, that nongalvanized drill pipe may be used if it exceeds schedule 40 in thickness.~~
 - ~~(7) All pipe and other ferrous parts, except chain link fabric and drill pipe, shall be galvanized inside and outside with plating which contains a minimum of 1.2 ounces of zinc per square foot of surface area.~~
 - ~~(8) Tension rods shall be 3/8 inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six inch minimum take up. Tension bars shall have a minimum thickness of 1/4 by 3/4 inch.~~
 - ~~(9) All fences shall have security extension arms at the top of such fences and such security extension arms shall be strung with galvanized barbed wire.~~
- L. ~~Masonry wall specifications. All masonry walls used to enclose in whole or in part any oil well site or oil operation site shall be constructed in accordance with standard engineering practices and shall meet the following specifications:~~

- ~~(1) The walls shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site.~~
 - ~~(2) The wall shall be at least six feet in height.~~
 - ~~(3) It shall be constructed in accordance with the provisions of Chapter 112, Code Enforcement, Article II.~~
- ~~M. Gate specifications. For oil operations and drill sites, all chain link fences and masonry walls shall be equipped with at least one gated area. The gated areas shall meet the following specifications:~~
- ~~(1) Each gated area shall be not less than 12 feet wide and be composed of two gates, each of which is not less than six feet wide, or one sliding gate not less than 12 feet wide. If two gates are used, gates shall latch and lock in the center of the span.~~
 - ~~(2) The gates shall be of chain link construction which meets the applicable specifications or of other approved material which, for safety reasons, shall be at least as secure as chain link fence.~~
 - ~~(3) They shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site.~~
 - ~~(4) Hinges shall be heavy duty malleable iron or steel industrial service type with a 180° swing.~~
- ~~N. Muffling exhaust. It shall be unlawful for any person, owner or operator to discharge into the open air exhaust from any internal combustion engine, used in connection with the drilling of any well or for use on any production equipment unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.~~
- ~~O. Public nuisance declared. The foregoing sections notwithstanding, no person shall conduct any oil operation in a manner that would create an unreasonable noise, odor or vibration detrimental to the health, safety or welfare of the surrounding neighborhood or any considerable number of persons. Such operation is hereby declared to constitute a public nuisance and is in violation of this chapter.~~
- ~~P. Fire prevention sources of ignition. All electrical equipment used, installed or maintained within 50 feet of a drilling rig, or within 25 feet of any other oil operation shall be installed and maintained in accordance with all applicable state and Township regulations.~~
- ~~Q. Oil storage tanks. Unless otherwise directed by the Bureau, all tanks used for the storage, production of oil or the disposal of wastewater shall conform to the following:~~
- ~~(1) API specifications. All tanks shall conform to American Petroleum Institute (API) specifications unless other specifications are approved by the chief of the fire department.~~
 - ~~(2) Dikes and capacity requirements. All persons owning, operating or having control of storage tanks, clarifying tanks or tanks used in connection with the production of oil shall construct and maintain dikes around said tanks. Drainage dikes and walls shall be constructed and maintained to meet the standards of the Bureau and the National Fire Protection Association as they presently exist and may hereafter be amended.~~
- ~~R. Removal of portable pulling masts and gin poles. All well servicing equipment, including portable pulling masts and gin poles, shall be removed from the leasehold, oil operation site or drill site within seven days after completion of a well servicing operation.~~

~~S.—Storage of equipment.~~

- ~~(1)—No drilling, redrilling, reworking or other portable equipment shall be stored on the oil operation site which is not essential to the everyday operation of the oil well located thereon. This includes the removal of idle equipment unnecessary for the operation of such wells.~~
- ~~(2)—Lumber, pipes, tubing and casing shall not be left on the oil operation site except when drilling or well servicing operations are being conducted on the site.~~
- ~~(3)—It shall be illegal for any person, owner or operator to park or store any vehicle or item of machinery on any street, right of way or in any driveway, alley or upon any oil operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the maintenance of the oil well site or for gathering or transportation of hydrocarbon substances from the site.~~

~~T.—Motive power for pumping and drilling. Electric motors shall be used to drive all pumping and drilling units. Diesel generators shall power the electric motors. The use of line power from a utility company may be considered by the Board of Supervisors.~~

~~U.—Surface casing.~~

- ~~(1)—All casing, tubing and equipment used in the drilling and completion of a well should be in good condition and adequate in strength for the depths to be drilled and the pressures that may be encountered.~~
- ~~(2)—Lessee shall use a casing program which complies with oil and gas statutes and rules and regulations of the Commonwealth of Pennsylvania. (25 Pa. Code § 79.12 or as may hereafter be amended) whether or not said rules and regulations would be deemed applicable to the subject well, and which prevents the escape of oil, gas or water out of one stratum into another, the pollution of fresh water supplies and blowouts.~~
- ~~(3)—In addition to the above requirements the surface casing shall extend from the surface to a depth at least 75 feet below all fresh water zones known to exist in the field and adjacent area to protect them from contamination.~~
- ~~(4)—The production casing shall be of new or reconditioned seamless pipe of a grade and weight designed to withstand the greater of the following pressures to which the casing is planned to be stressed:
 - ~~(a)—The maximum anticipated rock pressure on any point in the casing string shall not stress the casing in yield greater than 75% of the API specified internal yield pressure of the pipe at minimum yield as shown in API.~~
 - ~~(b)—If the well is to be fractured, the casing shall be designed so that the fracture pressure anticipated at any point in the casing does not exceed the API specified internal yield pressure of the casing at minimum yield as shown in API Bulletin 5-C-2 or later amendments.~~~~
- ~~(5)—After cementing and before perforating or drilling in the casing shall be tested by pump pressure at the well head to a pressure 20% greater than the anticipated maximum pressure at the well head. If at the end of 30 minutes, pressure show a drop of 50 pounds per square inch or more, the casing shall be repaired sufficiently to withstand the pressure test described herein. After the corrective operation, the casing shall again be tested in the same manner.~~

- ~~(6) All surface casing and production casing shall be cemented in the ground with good quality cement equaling or exceeding API specification in the manner hereinafter described.~~
- ~~(7) Cementing of all casing strings shall be accomplished by pump and plug or another method approved by the Board of Supervisors.~~
- ~~(8) An attempt shall be made to circulate the cement to the surface in cementing the surface casing. In the event that the cement cannot be circulated to the surface due to the presence of fractures or other lost circulation zones, lessee shall determine as accurately as possible the depth of the top of the cement in the annular space behind the casing and record it on the well record.~~
- ~~(9) In wells where cement has not been circulated to the surface, there must be sufficient good quality cement in places in the annular space behind the casing to tightly hold the casing in place so that the escape of oil, gas or water from one stratum to another or to the surface does not occur behind the casing. The well operator, in such case, will make every reasonable effort and attempt to fill the annular space by introducing cement from the surface or other appropriate remedial action.~~
- ~~(10) Cement shall be allowed to stand a minimum of 24 hours before drilling the plug or initiating tests.~~

~~V. Temporary trailers. Temporary trailers, as provided for in § 285-186 of this article, shall be equipped with adequate sanitary facilities. These facilities, and the management of all waste, must be approved by the Township Engineer.~~

~~§ 285-194. Screening.~~

- ~~A. All oil wells and tanks, as defined in this article, shall be screened by a fence enclosure constructed on one of the following materials:~~
- ~~(1) A solid masonry wall.~~
 - ~~(2) A chain link fabric with 3 1/2 inch mesh interwoven with opaque slats.~~
 - ~~(3) Any other materials, compatible with surrounding uses, which effectively screen the oil operations site and are approved by the Board of Supervisors.~~
 - ~~(4) All fencing, masonry walls, opaque slatting or other compatible materials, for use with chain link fabric, shall be of a solid neutral color, compatible with surrounding uses, and maintained in a neat, orderly and secure condition.~~
- ~~B. Screening drilling, redrilling, reworking, converting and activation. Within 60 days of completion of drilling, redrilling, reworking or converting or within 60 days of activation of any idle well as defined in this chapter, such well shall be screened by a fence enclosure which conform to the requirements of this chapter, and regulations of the Commission.~~
- ~~C. Landscaping. Within 60 days after completion of drilling or redrilling or within 60 days after activation of any idle well, any oil operation site, shall be landscaped in accordance with a plan submitted to and approved by the Board of Supervisors.~~

~~§ 285-195. Abandoned wells.~~

- ~~A. Abandonment procedure. Whenever abandonment occurs pursuant to the requirements of the Bureau,~~

~~or activity ceases at the well site for a period of 180 days, the person so abandoning shall be responsible for the restoration of the drill site and oil operation site to its original condition as nearly as practicable in conformity with the regulations of this chapter.~~

~~B.—Abandoned well requirement. The responsible party shall furnish the Township with:~~

- ~~(1)—A copy of the approval of the Bureau, confirming compliance with all abandonment procedures under all applicable State Acts or regulations.~~
- ~~(2)—A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.~~

~~C.—Abandoned well surface requirements. Abandonment shall be approved by the Township after restoration of the drill site and the subsurface thereof has been accomplished in conformity with the following:~~

- ~~(1)—The derrick and all appurtenant equipment thereto shall be removed from the drill site.~~
- ~~(2)—All tanks, towers and other surface installations shall be removed from the drill site.~~
- ~~(3)—All concrete, piping, wood and other foreign materials, regardless of depth, except surface casing, shall be removed from the drill site, unless otherwise directed by the Bureau.~~
- ~~(4)—All holes and depressions shall be filled with clean, compatible soil. All oil, waste oil, refuse or waste material shall be removed from the drill site.~~

~~D.—Abandonment requirements prior to new construction. All abandoned and deserted wells or drill sites shall meet the most current abandonment requirements of the Bureau whether or not the Bureau would have jurisdiction over the well site, prior to the issuance of any building or grading permit for development of the property. The maximum extent practicable, new structures shall not be constructed directly over abandoned wells.~~

~~§ 285-196. Public nuisance.~~

~~Whenever the Township Zoning Officer determines that a public nuisance, as described in this article, exists on any property or in connection with any well, drill site or lease, he shall give notice to the property owner, the lessee of surface or mineral rights, the oil operator and the occupants of any such property to abate such nuisance, according to Article II of this chapter.~~

~~§ 285-197. Cleanup and maintenance.~~

~~A.—Cleanup after well servicing. After completion of well servicing or abandonment operations, the registered operator of the well site shall clean the drill site area and repair all damage to public and private property caused by such surfacing or abandonment operations.~~

~~B.—Cleanup after spills, leaks and malfunctions. After any spill, leak or malfunction, the responsible party shall remove or cause to be removed to the satisfaction of the Township Engineer and/or chief of the fire department all oil and waste materials from any public or private property affected by such spill, leak or malfunction.~~

~~C.—Releasing of fluids. No person shall deposit, place, discharge or caused or permit to be placed, deposited or discharge any oil, naphtha, petroleum, asphaltum, tar, hydrocarbon substances or any~~

~~refuse including wastewater and brine from any oil operation or the contents of any container used in connection with an oil operation in, into, or upon a public right of way, a storm drain, ditch or sewer; a sanitary drain or sewer; any body of water; or any private property in the Township.~~

- ~~D. Freedom from debris. All property on which an oil well site is located shall at all times be kept free of: (a) debris; (b) pools of oil, water or other liquids; (c) weeds; (d) brush; (e) trash, or other waste material.~~
- ~~E. Painting. All production equipment on the oil operation site shall be painted and maintained at all times, including pumping units, storage tanks, and buildings or structures. When requiring painting of such facilities, the Township Zoning Officer shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses.~~
- ~~F. Gas emission or burning prohibited. No person shall allow or cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Bureau. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Bureau then such vent or open flame shall be located not closer than 300 feet to any building not necessary to oil operations.~~

~~§ 285-198. Technical advisor.~~

~~The Township may from time to time employ a technical advisor or advisors who are experienced or educated in the oil and gas industry. The function of such advisor shall be to advise the Township on matters relating to oil operations within the Township and the effect, both present and future, on the health, welfare, comfort and safety of the citizens of the Township. In the event such technical advisor is employed for the purpose of advising the Township relative to an operator's particular set of circumstances, case or request, any of which are not covered by this chapter or rules or regulations of the Commission, then the cost for such services of such technical advisor shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter.~~

~~§ 285-199. Township Solicitor.~~

~~In the event that the Township, pursuant to provisions of this chapter, must, for any reason, bring legal action against the operator of any oil or gas operations site, then the cost for such legal services shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter.~~

~~§ 285-200. Compliance with law.~~

~~Any violation of the laws of this Commonwealth of Pennsylvania or any rules, regulations or requirements of any state, federal government or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining or abandoning an oil or gas well or related appurtenances, equipment or facilities, or in reference to firewalls, fire protection, blowout protection, safety protection or convenience of persons or property, shall also be a violation of this chapter and shall be punishable in accordance with the provisions hereof.~~

~~§ 285-201. Acceptance of permit and binding effect.~~

~~By acceptance of any permit authorized to be issued pursuant to this chapter, any operator or permittee expressly stipulates and agrees to be bound by this chapter and to comply herewith and that by reference,~~

~~the terms of this chapter shall be deemed to be incorporated in any permit issued pursuant to this chapter with the same force and effect as if this chapter was set forth verbatim in such permit.~~

~~§ 285-202. Liability.~~

- ~~A.— Nothing herein contained shall operate to impose any liability on the Supervisors of Upper Frederick Township or said Township for damages which may result to any person, firm or corporation from the drilling of any well, or the hydrofracturing or shooting of any well for which permit is issued pursuant to this chapter.~~
- ~~B.— Any person, firm or corporation who or which shall drill, hydrofracture or treat any well under and by virtue of a permit herein provided for shall do so at his or its own peril, and shall be liable, if at all, to any party damaged thereby, without recourse to the Township of Upper Frederick or its Board of Supervisors.~~

ARTICLE XXIII
Zoning Map Amendments

§ 285-203. Zoning Map amendments.

Ordinance	Date	Description
2001-12	12-27-2001	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the easterly side of Traffic Route 29, being a portion of the land of Elsie E. Bardman, containing 20.648 acres
Res. 2002-08	10-10-2002	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the north side of Route 73, being a portion of the land of the Frederick Mennonite Community, containing 42.08 acres
Res. 2002-10	11-14-2002	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the south side of Route 73, being a portion of the land of St. Luke's Lutheran Church, containing 5.4414 acres
Ord. No. 2008-01	2-14-2008	<p>A. Reclassifying the following areas from R-40 High Density Residential to R-80 Land Preservation:</p> <ol style="list-style-type: none"> (1) In the vicinity of Deep Creek Road and Perkiomen Avenue (2) In the vicinity of Pa. Legislative Route 29 (Gravel Pike) on the east side of the intersection of Gravel Pike and Haywood Road (3) In the vicinity of Deep Creek Road and Perkiomenville Road (4) In the vicinity of Perkiomenville Road, south of Deep Creek Road <p>B. Reclassifying an area in the vicinity of Perkiomenville Road, Deep Creek Road and Locust Lane from CB Commercial Business to R-80 Land Preservation</p> <p>C. Reclassifying the following areas from CB Commercial Business to R-40 High Density Residential:</p> <ol style="list-style-type: none"> (1) In the vicinity of Deep Creek Road and Pa. Legislative Route 29 (Gravel Pike) (2) In the vicinity of Perkiomenville Road and Deep Creek Road <p>D. Reclassifying the following areas from R-60 Medium Density Residential to R-80 Land Preservation:</p> <ol style="list-style-type: none"> (1) In the vicinity of Perkiomenville Road, Faust Road and Brookside Way

Ordinance	Date	Description
		(2) In the vicinity of Fagleysville Road and Neiffer Road (3) In the vicinity of Clover Lane E. Reclassifying an area in the vicinity of Fagleysville Road, Big Road (Route 73) and Perkiomenville Road from R-60 Medium Density Residential to CB Commercial Business
Ord. No. 2009-05	7-9-2009	Changing the zoning classification of a certain 33.357± acre parcel of land located on the east side of Pennsylvania Legislative Route 29, as more fully set forth in the legal description attached hereto, made a part hereof and marked as Exhibit "A," ³⁰ from the current zoning classification of I – Industrial District to IR – Institutional and Recreational District.
Ord. No. 2011-07	10-13-2011	Changing the zoning classification of a certain 42.08± acre parcel of land located on the northeast side of Pennsylvania Legislative Route 73, as more fully set forth in the legal description attached hereto, made a part hereof and marked as Exhibit "A," ³¹ from the current zoning classification of R-80 Land Preservation District and R-40 High Density Residential District to IR – Institutional and Recreational District.
Ord. No. 2024-05	11-13-2024	<ul style="list-style-type: none"> • Change the Zoning District of the properties and TMP Nos. listed on Exhibit A³² from R-40 High Density Residential District to R-80 Land Preservation District. • Change the Zoning District of the properties and the TMP Nos. listed on Exhibit B³³ from R-80 Land Preservation District to R-40 High Density Residential District. • Change the Zoning District of the properties and TMP Nos. listed on Exhibit C³³ from R-60 Medium Density Residential District to R-80 Land Preservation District.

30. Editor's Note: Exhibit A is on file in the Township offices.

31. Editor's Note: Exhibit A is on file in the Township offices.

[32. Editor's Note: Exhibit A is on file in the Township offices](#)

[33. Editor's Note: Exhibit B is on file in the Township offices](#)

[34. Editor's Note: Exhibit C is on file in the Township offices](#)

ARTICLE XXIV

Riparian Corridor Conservation District (RCC)**[Added 9-10-2009 by Ord. No. 2009-07]****§ 285-204. Declaration of legislative intent.**

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter, and the statement of community development objectives found in Article I, § 285-3 of this chapter, it is the intent of this article to:

- A. Provide reasonable controls governing the conservation, management, disturbance and restoration of riparian corridors.
- B. Improve surface water quality by reducing the amount of nutrients, sediment, organic matter, pesticides and other harmful substances that reach watercourses, wetlands, subsurface and surface water bodies by using scientifically-proven processes, including filtration, deposition, absorption, adsorption, plant uptake and denitrification, and by improving infiltration, encouraging sheet flow and stabilizing concentrated flows.
- C. Improve and maintain the safety, reliability and adequacy of the water supply for domestic, agricultural, commercial, industrial and recreational uses, along with sustaining diverse populations of aquatic flora and fauna.
- D. Preserve and protect areas that intercept surface water runoff, wastewater, subsurface flow and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters, as well as to provide wildlife habitat, moderate water temperature in surface waters, attenuate flood flow, and provide opportunities for passive recreation.
- E. Regulate the land use, siting and engineering of all development to be consistent with the intent and objectives of this article and with the best-accepted conservation practices and to work within the carrying capacity of existing natural resources.
- F. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically Erosion Control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987,³³ Chapter 102 of the Administrative Code, (as amended October 10, 1980, Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Montgomery County Conservation District.
- G. Conserve natural features important to land or water resources such as headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats and other features that provide recreational value or contain natural amenities, whether on developed or undeveloped land.
- H. Work with floodplain, steep slope and other requirements that regulate environmentally sensitive areas to minimize hazards to life, property and riparian features.
- I. Recognize that natural features contribute to the welfare and quality of life of the Upper Frederick Township residents.

33. Editor's Note: See P.S. § 691.1 et seq.

- J. Conserve natural, scenic and recreation areas within and adjacent to riparian areas for the community's benefit.

§ 285-205. Establishment of overlay district.

- A. Overlay concept. The Riparian Corridor Conservation District (RCC) shall function as an overlay on any and all districts now or hereinafter enacted by the Township.
- (1) The RCC District shall have no effect on the permitted uses in the underlying zoning district, except where uses located within the district are in conflict with permitted uses, standards and intent set forth in this article.
 - (2) In those areas where the RCC District applies, the RCC requirements shall supersede the requirements of the underlying zoning districts.
 - (3) Changes in the underlying zoning districts shall have no effect on the boundaries of the RCC District.
- B. Boundary definition. The boundaries of the RCC District are defined and established as those areas adjacent to perennial streams, intermittent streams, wetlands and waterbodies identified on a Riparian Corridor Conservation District Map maintained by Upper Frederick Township and incorporated herein by reference. In addition, upon submission of a land development plan, the applicant, at its expense, shall do any and all necessary testing to identify any area within the proposed project subject to the regulatory requirements of the Riparian Corridor Conservation District.
- (1) Zone 1 riparian buffer; a buffer a minimum width of 25 feet from each defined edge of watercourse at bank full flow, measured perpendicular to the edge of the watercourse. Applicable watercourses include all perennial streams, intermittent streams draining 75 acres or greater, wetlands and other nonagricultural waterbodies greater than 10,000 square feet unless specifically exempted.
 - (a) Zone 1 steep slopes. Where steep slopes greater than 15% are located within 25 feet of the defined edge of bank, the Zone 1 riparian buffer shall be measured 25 feet from the break in steep slope. When the combination of steep slopes and Zone 1 riparian buffer exceed 75 feet from edge of bank at full flow, the boundary of Zone 1 riparian buffer shall not extend beyond 75 feet from edge of bank at full flow.
 - (b) Exempt waterbodies. Manmade waterbodies created for use with agricultural activities are exempt.
 - (2) Zone 2 riparian buffer; a buffer a minimum width of 50 feet from the outer edge of the Zone 1 riparian buffer, measured perpendicular to the edge of the Zone 1 riparian buffer. Applicable watercourses include all perennial streams identified on the Riparian Corridor Conservation District Map.
 - (a) Zone 2 steep slopes. Where steep slopes greater than 15% are located within Zone 2, the Zone 2 riparian buffer shall extend a minimum of 25 feet from the outer edge of steep slopes. When the combination of Zone 2 steep slopes and Zone 1 riparian buffer exceed 200 feet from edge of bank at full flow, the boundary of Zone 2 riparian buffer shall not extend beyond 200 feet from edge of bank at full flow.
 - (b) Zone 2 exempt waterbodies. All waterbodies not designated as a perennial stream on the Riparian Corridor Conservation District Map are exempt.

- (3) Zone 3 riparian buffer; a buffer a minimum width of 25 feet from the outer edge of the Zone 2 riparian buffer, measured perpendicular to the edge of the Zone 2 riparian buffer. In no case will the outer edge of the Zone 3 riparian buffer extend beyond 200 feet from the edge of the bank at full flow. Applicable watercourses include all perennial streams identified on the Riparian Corridor Conservation District Map.
 - (a) Zone 3 steep slopes. Where steep slopes greater than 15% are located within Zone 3, the Zone 3 riparian buffer shall extend a minimum of 25 feet from the outer edge of steep slopes. When the combination of steep slopes and Zone 1 and 2 riparian buffers exceed 200 feet from edge of bank at full flow, the boundary of Zone 3 riparian buffer shall not extend beyond 200 feet from edge of bank at full flow.
 - (b) One-hundred-year floodplain. In cases where the one-hundred-year floodplain extends beyond 25 feet from the outer edge of the Zone 2 riparian buffer, the Zone 3 riparian buffer shall extend to the outer edge of the one-hundred-year floodplain, not to exceed 200 feet from edge of bank at full flow.
 - (c) Zone 3 exempt waterbodies. All waterbodies not designated as a perennial stream on the Riparian Corridor Conservation District Map are exempt.
- C. Boundary interpretation and appeals. An initial determination as to whether the RCC District applies to a given parcel shall be made by the Zoning Officer.
 - (1) When an applicant disputes the Zone 1, 2 and/or 3 boundaries of the riparian corridor or the defined edge of a watercourse, surface water body or wetland, the applicant shall submit evidence to the Zoning Officer that shows the applicant's proposed boundary and provides justification for the proposed boundary.
 - (2) The Zoning Officer, with input from the Township Engineer and/or other advisors selected by the Board of Supervisors, shall evaluate all material submitted and provide a written determination within 45 days to the Board of Supervisors, Township Planning Commission and landowner or applicant.
 - (3) Any party aggrieved by any such determination or other decision or determination under this section may appeal to the Zoning Hearing Board under the provisions of § 285-30 of this article. The burden of proving the incorrectness of the Zoning Officer's decision shall be upon the appellant.

§ 285-206. Use regulations.

- A. Permitted uses. The following uses are permitted in Zone 1, 2 and 3 of the Riparian Corridor Conservation District as noted below.
 - (1) Zone 1.
 - (a) Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone 1, including:
 - [1] Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands and reforestation.
 - [2] Streambank stabilization.

- [3] Removal of invasive species in accordance with the plan approved by the Township.
- (2) Zone 2.
 - (a) Uses permitted in Zone 1.
 - (b) Open space uses, including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, recreational trails and reforestation.
 - (c) Agricultural uses conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Manual, March 2000, as amended.
 - (d) Forestry in accordance with recognized soil conservation practices.
 - (e) Passive use without impervious surface areas, such as camps, campgrounds and picnic areas.
 - (3) Zone 3.
 - (a) Uses permitted in Zones 1 and 2.
 - (b) Residential accessory structures having a total area equal to or less than 225 square feet.
 - (c) Fences.
 - (d) Required yard area.
- B. Conditional uses. The following, and no other uses, are permitted when authorized as a conditional use by the Board of Supervisors, provided that such use shall meet the standards set forth in this article. Such use shall be permitted subject to such reasonable conditions and safeguards as the Board of Supervisors may determine. All conditional uses must meet the requirements of the underlying district.
- (1) All zones.
 - (a) Corridor crossings:
 - [1] Agricultural crossings by farm vehicles and livestock.
 - [2] Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of § 285-211 are satisfied. The corridor crossing standards of § 285-212 should be considered during design of the driveway.
 - [3] Roadways, railroads and utilities, provided the mitigation requirements of § 285-211 and the corridor crossing design standards of § 285-212 are satisfied.
 - (2) Zone 3.
 - (a) Active recreation areas such as ball fields, playgrounds and courts, provided these uses are designed in a manner that will not permit concentrated flow of stormwater runoff. May include open shelters usually found in developed outdoor recreation areas. Toilet facilities may be acceptable when connected to public water and sewage systems. All impervious surfaces must provide mitigation measures in accordance with the requirements of § 285-211.

- (b) Centralized sewer and/or water lines and public utility transmission lines running along the corridor. When proposed as part of a subdivision or land development, the mitigation requirements of § 285-211 shall be satisfied. In all cases, these lines shall be located as far from Zone 2 as practical.
 - (c) Golf courses. Applicable requirements of § 285-211 shall be satisfied.
 - (d) Accessory structures in excess of 225 square feet where the effects of these structures are mitigated by reestablishment of vegetation, as specified under § 285-211D, Mitigation measures, and § 240-37F(6) of the Subdivision and Land Development Ordinance.
- C. Prohibited uses. Any use or activity not authorized within § 285-206, herein, shall be prohibited within all Zones of the Riparian Corridor Conservation District. The following activities and facilities are specifically prohibited:
- (1) Zone 1.
 - (a) Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under § 285-206, herein, and where the effects of these actions are mitigated by reestablishment of vegetation, as specified under § 240-37F(6) of the Subdivision and Land Development Ordinance.
 - (b) Storage of any hazardous or noxious materials listed in § 285-138 of the Code of the Township of Upper Frederick.
 - (c) Use of fertilizers, pesticides, herbicides and/or other chemicals in excess of the manufacturer's instructions or in the absence of instructions per prescribed industry and/or the recommendations of the Montgomery County Conservation District.
 - (d) Roads or driveways, except where permitted as corridor crossings in compliance with § 285-212, herein.
 - (e) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.
 - (f) Parking lots.
 - (g) Any type of permanent structure, except structures identified or needed for a use permitted in § 285-206, herein.
 - (h) Subsurface sewage disposal areas.
 - (i) Sod farming.
 - (j) Stormwater basins, including necessary berms and outfall facilities.
 - (k) Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.
 - (l) Outlet installations for sewage treatment plants and sewage pumping stations.
 - (2) Zones 2 and 3.
 - (a) Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under § 285-206, herein, and where the effects of these actions are

mitigated by reestablishment of vegetation, as specified under § 240-37F(6) of the Subdivision and Land Development Ordinance.

- (b) Storage of any hazardous or noxious materials listed in § 285-138 of the Code of the Township of Upper Frederick.
- (c) Use of fertilizers, pesticides, herbicides and/or other chemicals in excess of the manufacturer's instructions or in the absence of instructions per prescribed industry and/or the recommendations of the Montgomery County Conservation District.
- (d) Roads or driveways, except where permitted as corridor crossings in compliance with § 285-212, herein.
- (e) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume, except for vehicles associated with maintenance of RCC District, agriculture and forestry.
- (f) Parking lots.
- (g) Any type of permanent structure, except structures identified or needed for a use permitted in § 285-206, herein.
- (h) Subsurface sewage disposal areas.
- (i) Sod farming.
- (j) Stormwater basins, including necessary berms and outfall facilities.
- (k) Outlet installations for sewage treatment plants and sewage pumping stations.
- (l) Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.

§ 285-207. Application procedures.

- A. A zoning permit shall be required for all development and activity affecting the vegetation in the Riparian Corridor Conservation District. An application for a zoning permit shall be filed with the Zoning Officer, who shall make an initial determination on the application.
- B. For a use other than those permitted in § 285-206, an application seeking approval of a variance shall be forwarded to the Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer.

§ 285-208. Procedures for consideration of a conditional use or variance.

- A. All applications for approval of conditional uses shall be considered using standards listed in §§ 285-204, 285-61 and 285-35.
- B. For variance applications, applications shall be processed in accordance with Article IV, Zoning Hearing Board, of the Upper Frederick Township Zoning Ordinance. All applications for approval of variances shall be considered using standards listed in §§ 285-204, 285-35 and 285-36.

§ 285-209. Nonconforming structures and uses.

Nonconforming structures and uses of land within the Riparian Corridor Conservation District shall be regulated under the provisions of Article VI, Nonconforming Status, herein, except that the one-year time frame for discontinuance shall not apply to agricultural uses which are following prescribed best management practices for crop rotation.

§ 285-210. Inspection of Riparian Corridor Conservation District.

- A. Lands within or adjacent to an identified Riparian Corridor Conservation District will be inspected by the Zoning Officer and/or other representatives designated by the Upper Frederick Township Board of Supervisors when:
- (1) A subdivision or land development plan is submitted.
 - (2) A building permit is requested.
 - (3) A change or resumption of nonconforming use is proposed.
- B. The District may also be inspected periodically by the Zoning Officer and/or other representatives designated by the Upper Frederick Township Board of Supervisors for compliance with an approved restoration plan, excessive or potentially problematic erosion, hazardous trees, or at any time when the presence of, or possibility of, an unauthorized activity or structure is brought to the attention of Upper Frederick Township officials.

§ 285-211. Management of the Riparian Corridor Conservation District.

- A. Removal of invasive plant species. Invasive plant species may be removed from the required Riparian Corridor Conservation District in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance.
- B. Riparian corridor planting. When required, reestablishment of forest cover and woodland habitat shall be consistent with the requirements of the landscape regulations within § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance.
- C. Buffer averaging. The Board of Supervisors may approve an encroachment of development into Zone 3 if the following conditions exist:
- (1) The area of encroachment may not exceed 25% of the Zone 3 area.
 - (2) The area of encroachment must be found to be in a degraded condition by the Township.
 - (3) The area of encroachment must be offset at a 1:1 ratio by an area adjacent to the Zone 3 buffer with existing mature vegetation that will be preserved and designated as part of the riparian corridor.
- D. Mitigation measures. Uses permitted in § 285-206 involving corridor crossings or other encroachments within the riparian corridor shall be mitigated by increasing the area of the corridor as replacement for the area lost at a 1:1 ratio due to the encroachment or disturbance, so that the total corridor area (land area within Zones: 1, 2 and 3) for each applicable side of the stream or watercourse is equal to that required by § 285-205. The mitigation area shall be vegetated in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision

and Land Development Ordinance.

§ 285-212. Corridor crossings standards.

- A. Corridor crossing criteria. All corridor crossings permitted under § 285-206, herein, shall incorporate, as required, the following design standards:
- (1) The width of the right-of-way should not be greater than the minimum right-of-way width required by the Upper Frederick Township Subdivision and Land Development Ordinance.³³³⁴
 - (2) Crossings should be designed to cross the riparian corridor at direct right angles to the greatest extent possible in order to minimize disturbance of the corridor.
 - (3) Corridor crossings should be separated by a minimum of 1,000 feet of buffer length.
 - (4) Box culverts should be used in place of culverts when crossings would require a thirty-six-inch or greater diameter pipe. When culverts are installed, they should consist of slab, arch or box culverts, and not of corrugated metal pipe. Culverts should also be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.

§ 285-213. Use of technical terminology.

Technical terminology used in this article shall be interpreted to have the meanings used by recognized sources and experts in the fields of forestry, woodland or meadow management, streambank protection, wetlands management, erosion and sedimentation control, or other relevant fields.

34. Editor's Note: See Ch. 240.

ARTICLE XXV
Transfer of Development Rights
[Added 5-12-2011 by Ord. No. 2011-02]

§ 285-214. Declaration of legislative intent.

The purposes of this article include:

- A. Preservation of open space, scenic views, critical and environmentally sensitive areas, and natural hazard areas;
- B. Conservation of agriculture and forestry uses of land;
- C. Protection of lands and structures of aesthetic, architectural, and historic significance;
- D. Implementation of the Township and the Regional Comprehensive Plans;
- E. Ensure that the owners of preserved, conserved, or protected land may make reasonable use of their property rights by selling the development rights which can then be transferred and used in eligible zones;
- F. Provide a mechanism whereby development rights may be reliably transferred; and
- G. Ensure that development rights are transferred to properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

§ 285-215. Authority.

This article is enacted pursuant to the authority granted by Article VI, Zoning, Section 603, Ordinance Provisions, (c)(2.2), of the Pennsylvania Municipalities Planning Code.

§ 285-216. Establishment of sending and receiving districts.

- A. Sending districts. The following zoning districts shall be sending districts for the purposes of the transfer of development rights program:
 - (1) R-80 Land Preservation District.
 - (2) RP Rural Preservation District.
- B. Receiving districts. The following zoning districts shall be receiving districts for the purposes of the transfer of development rights program:
 - (1) R-60 Medium Density Residential District.
 - (2) R-40 High Density Residential District.

§ 285-217. Right to transfer development rights.

- A. Each transferor shall have the right to sever all or a portion of the development rights from the sending parcel and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the Declaration of Legislative Intent of § 285-214 above.
- B. The transferee may retire (temporarily or permanently) the rights, resell them, or apply them to

property in a receiving district in order to obtain approval for development at a density or at an intensity of use greater than would otherwise be allowed on the land, up to the maximum density or intensity of use indicated in Table 1. The purchase of one development right shall equal the right to develop one dwelling unit in the receiving district.

Table 1
TDR Density Bonuses (Dwelling Units Per Net Acre)

Dwelling Unit Type	Base Density	TDR Bonus Density	Maximum Density with TDR
R-60 Medium Density			
Single-family detached cluster	0.75	1	1.75
Village house, lot line and single-family semidetached	0.75	1.75	2.5
Single-family attached	0.75	4.25	5
R-40 High Density			
Single-family detached	1.75	2.25	4
Two-family dwellings (2 units in 1 structure)	2.5	2.5	5
Single-family attached (townhomes)	5	1	6
Multifamily dwellings	6	0	6

- C. Any transfer of development rights pursuant to this article authorizes only an increase in maximum density and shall not alter the development standards for floodplains, wetlands, riparian corridors, and/or other environmentally sensitive areas. Nor shall it allow a use otherwise prohibited in a receiving district.

§ 285-218. Determination of number of development rights; issuance of certificate.

- A. Voluntary enrollment. A property owner with a single tract of land 10 acres or greater and within a sending district established in § 285-216 above may participate in the TDR program. The number of TDRs that may be transferred from a property in the sending district shall be calculated by either of the following methods:

- (1) Submitting a TDR determination application, on a form available from the Township. Upon submission of the determination application, the Township and/or its designees or professionals will develop a sketch yield plan using available Geographic Information System (GIS) data and excluding any existing dwellings, nonresidential and nonagricultural uses, and other existing deed restrictions. The sketch yield plan will determine the number of residential units that might be developed under the then-existing local and state laws and regulations. This number may then be used by the property owner as the number of development rights that could be severed from the subject property.

- (2) Submitting a subdivision plan to the Township for review. The total number of buildable lots determined on the approved preliminary subdivision plan shall be the number of development rights that could be severed from the property.
- B. Application for TDR certificate. Upper Frederick Township shall be responsible for:
- (1) Determining, upon application by a transferor, the number of development rights that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application of a transferor.
 - (2) Maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and those transferred to specific properties or entities.
 - (3) Making forms available on which to apply for a transfer of development rights certificate.
- C. An application for a transfer of development rights certificate shall contain:
- (1) A certificate of title for the sending parcel prepared by a title company licensed to do business in the Commonwealth of Pennsylvania, confirming that there are no encumbrances against the sending parcel;
 - (2) Five copies of a plat of the proposed sending parcel and a legal description of the sending parcel prepared and sealed by licensed land surveyor;
 - (3) A statement of the type and number of development rights being transferred from the sending parcel, and evidence showing how same was determined;
 - (4) Payment of all applicable fees; and
 - (5) Such additional information required by the Township Designee as necessary to determine the number of development rights that qualify for transfer.
- D. A transfer of development rights certificate shall identify:
- (1) The transferor;
 - (2) The transferee;
 - (3) A legal description of the sending parcel on which the calculation of development rights is based;
 - (4) A statement of the number of development rights in dwelling units per net acre eligible for transfer;
 - (5) If only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in dwelling units per net acre remaining on the sending property;
 - (6) The date of issuance;
 - (7) The signature of the Township Designee; and
 - (8) A serial number assigned by the Township Designee.
- E. No transfer of development rights under this article shall be recognized by Upper Frederick Township

as valid unless the instrument of original transfer contains the Township Designee's written certification.

§ 285-219. Instrument of transfer.

- A. An instrument of transfer shall conform to the requirements of this section. An instrument of transfer, other than an instrument of original transfer, need not contain a legal description or plat of the sending parcel.
- B. Any instrument of transfer shall contain:
- (1) The names of the transferor and the transferee;
 - (2) A certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the Commonwealth of Pennsylvania;
 - (3) A covenant that the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel; and
 - (4) An acknowledgment by the transferor that he permanently and forever has no use or right of use to the development rights being transferred.
- C. An instrument of original transfer is required when a development right is initially separated from a sending parcel. It shall contain the information set forth in Subsection B above and the following information:
- (1) A legal description and plat of the sending parcel prepared and sealed by a licensed surveyor;
 - (2) The transfer of development rights certificate described in § 285-218D above;
 - (3) A covenant indicating the number of development rights remaining on the sending parcel (if any) and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by the remaining number of development rights; and
 - (4) An acknowledgment that all provisions of the instrument of original transfer is a covenant running with the land which binds the sending parcel in perpetuity and which may be enforced by the Township.
- D. The Township Solicitor shall review and approve as to the form, content, and sufficiency of the following instruments in order to effect a transfer of development rights to a receiving parcel:
- (1) An instrument of original transfer;
 - (2) An instrument of transfer to the owner of the receiving parcel; and
 - (3) Instrument(s) of transfer between any intervening transferees.
- E. Upon such approval, the Township Solicitor shall notify the transferor or his or her agent, who shall then record the instruments with the Recorder of Deeds Office of Montgomery County, and shall provide a copy to the Montgomery County Real Estate Tax Assessor. Such instruments shall be recorded prior to release of building permits for the receiving parcel.

§ 285-220. Application of development rights to receiving parcel.

- A. A person who wants to use development rights on a property in a receiving district up to the maximums specified in Table 1 in § 285-217 above shall submit an application for the use of such rights on a receiving parcel. The application shall be part of a development plan. In addition to any other information required for the development plan, the application shall be accompanied by:
- (1) An affidavit of intent to transfer development rights to the property; and
 - (2) Either of the following:
 - (a) A certified copy of a recorded instrument of the original transfer of the development rights proposed to be used and any intermediate instruments of transfer through which the applicant became a transferee of those rights; or
 - (b) A signed written agreement between the applicant and a proposed original transferor, which contains information required by § 285-219B above and in which the proposed transferor agrees to execute an instrument of such rights on the proposed receiving parcel when the use of those rights, as determined by the issuance of final approval of a development plan.
- B. No final plan, including minor subdivisions, shall be approved and no development or building permits shall be issued for development involving the use of transferable development rights unless the applicant has demonstrated that:
- (1) The applicant will be the bona fide owner of all transferred development rights that will be used for the construction of additional dwellings or the creation of additional lots;
 - (2) A deed of transfer for each transferred development right has been recorded in the chain of title of the sending parcel and such instrument restricts the use of the sending parcel in accordance with this article; and
 - (3) The development rights proposed for the subdivision or development have not been previously used. The applicant shall submit proof in the form of a current title search prepared by an attorney licensed to practice law in the Commonwealth of Pennsylvania.
- C. TDR calculation. If a TDR bonus is used, the plan submission must include a schedule which clearly indicates:
- (1) Net developable acres.
 - (2) Base yield under Subsection C(1) above. Base yield equals the Net developable acres times base density rounded down to the nearest whole unit.
 - (3) Potential yield or the maximum number of dwelling units allowed under maximum density, above.
 - (4) Proposed yield or the total number of proposed dwelling units.
 - (5) TDRs applied. TDRs applied equal the proposed yield minus the base yield.
- D. Minimum threshold for use of TDR. An applicant that wishes to use the TDR bonus density must build at least 1/2 of the additional dwelling units allowed under maximum density. The threshold number is equal to the base yield plus 1/2 of the difference of maximum potential yield and the base yield.