

Waverly Township

Zoning Ordinance

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A Member of the
Scranton-Abingtons Planning Association

Waverly Township
Zoning Ordinance

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ARTICLE 1 General Provisions

Section 1.1 – Title and Short Title

A. Title and Authority.

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

B. Short Title.

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

Section 1.2 – Purpose

This Ordinance is enacted for the following purposes:

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

Section 1.3 – Community Development Objectives

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

Section 1.4 – Interpretation

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

Section 1.5 – Applicability, Severability, and Scope

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

Section 1.6 – Effective Date

Under the authority conferred by the Pennsylvania Municipalities Planning Code (MPC), as amended, and following a public hearing, the Waverly Township Board of Supervisors hereby enacts and ordains into an ordinance this document on the date of June 14, 2021. All zoning ordinances of Waverly Township previously in adoption are hereby repealed.

ARTICLE 2
Definitions

Section 2.1 – Interpretations

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

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

Section 2.2 – Definitions

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

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

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

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

ADDITION – See “extension.”

AGRICULTURAL PROCESSING ARTISAN – Limited scale transformation of raw materials or food.

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

ALLEY/LANE – A narrow vehicular access to the rear of lots providing service areas, utility easements, and access to parking and outbuildings.

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

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

AMENDMENT – Any change or revision of the text of this Ordinance or the Zoning Map.

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

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

ARCHITECTURAL APPEARANCE, EXTERIOR – The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

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

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

BANK OR FINANCIAL INSTITUTION – An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds.

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

BED-AND-BREAKFAST – Any single-family dwelling in which more than three (3) persons either individually or as families are housed or lodged for remuneration with meals normally included as a part of the services rendered and shall be restricted to transient visitors to the area.

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

BOARD OF SUPERVISORS – The governing body of Waverly Township, Lackawanna County, Pennsylvania.

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

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

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

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

BUILDING COVERAGE – The ratio obtained by dividing the ground floor area plus any projected area of all principal and accessory buildings on a lot (including covered porches, carports and breezeways, but excluding uncovered, open patios, porches and paved terraces) by the total area of the lot upon which the buildings are located.

BUILDING HEIGHT – The vertical distance of a building or structure measured from the average finished ground elevation along the entire perimeter of the building or structure, to the highest point of the roof for flat roofs, to the deck lines of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING SETBACK LINE – The line within a lot defining the required minimum setback distance between any structure and the adjacent street line as well as side and rear lot lines.

BUILDING-INTEGRATED SYSTEM – A solar photovoltaic system that is constructed as an integral part of a principal or accessory building or structure and where the building-integrated system features maintain a uniform profile or surface of vertical walls, window openings, and roofing. Such a system is used in lieu of a separate mechanical device, replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform surfaces of walls, window openings and roofing. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems.

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

BUSINESS SIGN – A sign which directs attention to a business, profession or industry conducted on the premises or to products sold, manufactured or assembled upon the same premises upon which it is displayed or to which it is affixed. Signs offering premises for sale, rent or development, or advertising the services of professionals or advertising building trades during construction or alteration are not considered to be business signs, but as temporary signs.

BYOB CLUB – Means any business facility such as a dance hall, club, association or entity not licensed by the Pennsylvania Liquor Control Board, wherein patrons twenty-one (21) years of age and older may, after payment of a fee, cover charge or membership fee, consume alcoholic beverages which said patrons have carried onto the premises. This definition does not include a facility which is rented for a limited period of time, not to exceed twelve (12) hours, by an individual or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises.

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

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

CARPORT, GARAGE, OR SHED, PRIVATE – A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

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

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

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

CERTIFICATE OF APPROPRIATENESS – The approval statement signed by the Board of Supervisors that certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any structure within the Waverly National Register Historic District and authorizes the issuance of a building permit for said request.

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

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

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

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

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

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

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

COMPREHENSIVE PLAN – A Comprehensive Plan (overall program) consists of maps, charts, textual matter, and indicates the recommendations of the planning commission for the continuing development of the municipality. The comprehensive plan includes but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicated the relationship of the municipality and its proposed development to the adjacent municipalities and areas.

CONDOMINIUM – A dwelling type permitted under this ordinance in which:

- A. The dwelling unit(s) is individually owned; and,
- B. All or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with Pennsylvania Unit Property Act of July 3, 1963, P.L. 196 and in accordance with the provisions for open space, roads, or other development features as specified in this Ordinance and the subdivision and land development regulations.

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

CONSERVATION AREA, PRIMARY – Those areas of a development tract that are comprised of environmentally sensitive lands on which development is not permitted.

CONSERVATION AREA, SECONDARY – Those areas of a development tract that are somewhat less sensitive than primary conservation areas and that may be critical to the effect the development will have on both the natural environment and the rural character of the community.

CONSERVATION DESIGN DEVELOPMENT – The layout of development in a manner that emphasizes the permanent preservation of substantial areas of open space, and is based upon a four-step design of: 1) identifying the primary conservation areas that should be preserved, and prioritizing their importance; 2) locating the most appropriate home sites; 3) aligning streets and trails to serve the home sites, and; 4) drawing in the proposed lot lines. Conservation Design Development is mandatory for all major subdivisions and major land developments, as defined by the Waverly Township Subdivision and Land Development Ordinance as amended, that involves over three (3) acres of land.

CONSERVATION EASEMENT – A right or interest in land granted primarily for the preservation of the land in its undeveloped state but that may allow limited development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

CONSERVATION LOT – A large, privately owned lot comprising part of an area of open land. The purpose of the conservation lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed for residential use; the remainder must be protected through conservation easements and used in conformance with standards for greenway land, which include compatible resource-based, for-profit, commercial uses such as agriculture, horticulture, wholesale nurseries, and equestrian facilities.

CONSERVATION RESIDENTIAL – Development pattern that focuses on limited disturbances on the overall landscape

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

CONVENIENCE STORE – A one-story retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items. It may also include the sale of gasoline but shall not include the repair or service of vehicles.

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

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

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

CROP STORAGE, AS AN ACCESSORY USE TO FARMING – The temporary or seasonal storage of harvested materials.

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

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

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

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

DECK – A structure which may or may not be enclosed and which projects out from the main wall of a building or structure and does not have a roof.

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

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

DEVELOPMENT – Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations. For the purposes of this Ordinance, the definition of development shall also include the storage of equipment or materials.

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

DORMITORY – Residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or State-licensed teaching hospital, or approved “Care and Treatment Center for Children” (as an accessory use to such use) or to an accredited public or private primary or secondary school, and which are owned and operated by such principal use to which the dormitory serves. Dwelling units shall not be regulated as “dormitories.”

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

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

DWELLING

DWELLING: ASSISTED-CARE APARTMENT UNIT – A secondary dwelling unit established for the care of an infirmed, aged, or ill relative, and in conjunction with and clearly subordinate to the primary, single-family detached dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

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

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

DWELLING: TOWNHOUSE – A townhouse shall include a group of not more than eight (8) single-family attached dwellings separated from each other by common walls, where each unit contains a separate and private entrance to the outside.

DWELLING: TWO-FAMILY – A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall and having one (1) side yard adjacent to each dwelling unit; or upstairs/downstairs units. A two-family dwelling in a multi-family project shall be considered a townhouse for the purposes of regulation by this Ordinance.

EASEMENT – A right-of-way granted, but not dedicated, for limited use of private land for private, public, or quasi-public purposes.

EMERGENCY SERVICES – A building for the housing of fire, emergency medical or police equipment and for related activities. This may include housing for emergency personnel while on-call.

ENVIRONMENTALLY SENSITIVE AREAS – Areas that have ecological importance, including but not limited to Natural Heritage Areas identified by the Nature Conservancy or similar organization, 100-year floodplains, slopes over twenty-five percent (25%), and wetlands.

EQUESTRIAN FARM – A building or structure and/or land whose operator keeps equines primarily for breeding and boarding and which operation may or may not be incidental to the owner's primary occupation.

ERECTION – Construction or assembly.

EROSION AND SEDIMENTATION – Erosion, the process by which the land surface and/or subsurface is worn away by the action of natural elements; sedimentation, the process by which mineral or organic matter is accumulated or deposited by the movement of wind and water, or by gravity.

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

EVERGREEN TREE – A tree, either single-stemmed or multi-stemmed (clump form), which is a minimum of six (6) feet tall at planting and is a species which at maturity can be expected to reach a height of at least 20 feet. See the Township’s official plant list for a listing of permitted evergreen trees.

EXCLUDED AREA – Those environmentally sensitive portions of the net lot area that are deemed unsuitable for development and thereby deducted from the minimum lot area requirements of this Ordinance by a percentage as established by this Ordinance and the Waverly Township Subdivision and Land Development Ordinance, as amended. These environmentally sensitive areas shall include but are not limited to slopes of twenty-five percent (25%) or greater, wetlands, and land within the 100-year flood plain.

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

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

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

FAMILY – (1) A person; (2) two or more persons, all of whom are related by blood, marriage, parentage or adoption (including foster children), living together as a single housekeeping unit. In addition to the family, two or fewer unrelated persons may reside with the housekeeping unit in the dwelling unit.

FARM CAFÉ – An eating establishment that prepares and serves food grown on-site and within Region 3 as defined by the Pennsylvania Department of Agriculture to the greatest extent possible. The principal objective of a farm cafe is to support local agriculture and provide alternatives to the conversion of farmland through sustainable rural economic development and empowering farmers.

FARM STAND – A stand that sells fresh agricultural produce.

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

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

FLAG LOT – A lot which has the buildable or net portion located directly to the rear of another lot that has direct access to a street right-of-way line. Flag lots shall have access to street rights-of-way via a minimum 20-foot wide strip that is considered part of the gross lot area but not as part as the net or buildable area.

FLICKER – A repeating cycle of changing light intensity.

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

FLOOD WATER – Waters which escape from streams or other bodies of water and over low adjacent lands, as distinct from runoff.

FLOOR AREA – See Gross Floor Area

FOOD TRUCK – A licensed, self-contained, motorized vehicle or mobile food unit (unit that does not travel under its own power) which is temporarily permitted to park in a designated area of an established use in permitted zoning district within Waverly Township in a location approved by the property owner. Ice cream trucks are exempted from this Ordinance.

FORESTRY – The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services including the operation of a sawmill but excluding other wood manufacturing businesses.

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

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

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

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

GARAGE, PRIVATE – An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

GARAGE SALE – The accessory use of a residential lot for the occasional sale or auction of only used common household goods and furniture and items of a closely similar character which were used by the occupants of the residential lot.

GATE – A movable frame or solid structure that swings, slides, lifts, or rolls, controlling ingress and egress through an opening in a fence, wall, or vegetation.

GAZEBO – An accessory use consisting of a detached, covered, freestanding, open-air structure not exceeding three hundred (300) square feet.

GENTLEMAN'S FARM – Small scale agrarian operation managed for pleasure as part of a family estate and which is not used to generate profit.

GLARE – The sensation produced by lighting that causes an annoyance, discomfort, or loss in visual performance and visibility to the eye.

GOLF COURSE OR COUNTRY CLUB – A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges, include clubhouses and shag ranges, but does not include miniature golf course or golf driving ranges.

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

GOVERNMENT SERVICES AND FACILITIES – Municipal, County, State or Federal government buildings or facilities designed and intended to be occupied by the government or designed and intended for public use sponsored by such governments.

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

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

GREENWAY LAND – Those lands within a Conservation Design Development that are set aside, and unavailable for development, for the protection of environmentally sensitive areas, farmland, scenic views, and other noteworthy, locally significant, or unique features of the property. Greenway land may be accessible to the residents of the development and/or the municipality, or it may contain areas of conservation lots that are not accessible to the public.

GROSS FLOOR AREA – The total area of all floors as measured to the outside surfaces of exterior walls, or from the centerline of party walls separating two buildings, but excluding crawl spaces, garages, carports, attics without floors, open porches, balconies, and terraces.

GROUND-MOUNTED SYSTEM – A solar photovoltaic system mounted on a structure, pole or series of poles constructed specifically to support the photovoltaic system and not attached to any other structure.

GROUP CARE FACILITY – A facility providing shelter, counseling, and other rehabilitative services in a family-like environment for more than nine (9) but fewer than fifteen (15) residents, plus such minimum supervisory personnel as may be required to meet standards of the licensing agency. Residents may not be legally related to the facility operators or supervisors and, by reason of mental or physical disability, chemical or alcohol dependency, family or school adjustment problems, or past correctional offenses require a minimal level of supervision but do not require medical or nursing care or general supervision. A group care facility must be licensed and/or approved by the Pennsylvania Department of Public Welfare.

GROUP HOME – A dwelling in which no more than eight (8) unrelated persons, each of whom is handicapped (disabled) within the meaning of the Fair Housing Act (Title 42, Chapter 45, Subchapter II, Section 3601, et. seq. of the United States Code), live together as a single, non-transient household unit (i.e., a “family,” as defined herein), with such non-resident staff as may be needed to assist the residents with their daily life activities. A group home shall follow all applicable provisions for “Division C-3 occupancy” in Title 34, Part I, Chapter 56 of the Pennsylvania Code, as amended. If serving a psychiatrically disabled population, the group home must be licensed by the Pennsylvania Department of Human Services and shall follow all applicable provisions for Community Residential Rehabilitation Services (CRRS) in Title 55, Part VII, Subpart E, Chapter 5310 of the Pennsylvania Code, as amended.

GUEST HOUSE – An attached or detached accessory building used to house guests of the occupants of the principal dwelling, which is never rented or offered for rent, contains no kitchen facilities, and does not exceed five hundred (500) square feet in floor area.

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

HISTORIC ARCHITECTURAL REVIEW BOARD – The agency that advises the Board of Supervisors on any request for authorization to construct, alter, reconstruct, repair, restore, or demolish all or part of any structure within the Waverly National Register Historic District.

HISTORIC DISTRICT – An overlay zone district of this ordinance, as outlined on the official “Waverly Township Historic District Map” and subject to the provisions of the Waverly Township Historic District Ordinance.

HOME-BASED BUSINESS, NO IMPACT – A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, whereas there shall be a maximum of two said accessory uses within any one dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal function to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

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

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

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

HOT TUB – An artificial container of water with a liquid capacity greater than one hundred (100) gallons and designed with a mechanical air injection system and/or recirculation device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

HOUSE GUEST – A temporary occupant of a short-term rental living quarter within a dwelling unit.

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

ILLUMINANCE – The quantity of light measured in footcandles or lux.

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

INDOOR RECREATION, PRIVATE – An accessory use conducted entirely within a building used for the sole recreational enjoyment of the residences of the premises and their guests, where no fees are charged for usage or personal instruction, and not exceeding three thousand (3000) square feet in floor area. This type of use includes bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, and tennis and other courts.

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

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

LAND DEVELOPMENT –

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

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

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

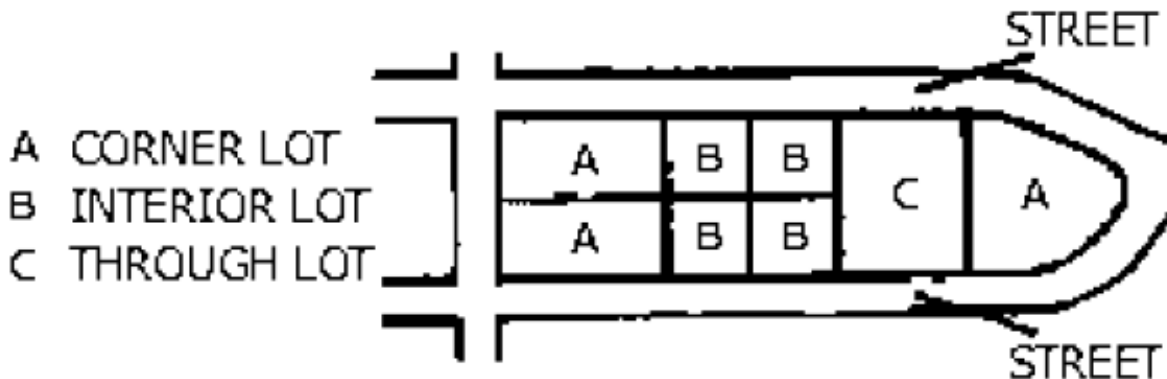
LIVESTOCK – Those class of animals that are customarily kept and housed outside the home or in enclosures such as pens, barns, corrals or padlock areas. Livestock includes, but is not limited to, horses, cattle (beef and dairy), llamas, alpacas, mules, swine, sheep, goats, chickens, and fowl.

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

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

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

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



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

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

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

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

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

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

LOT WIDTH – The horizontal distance between side lot lines.

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 complete 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, including but not limited to, mobile and modular homes.

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

MASSING – The three-dimensional building form produced by combining building height and building cover. A massing envelope represents the maximum building volume that can be constructed on a lot.

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

MAXIMUM IMPERVIOUS COVERAGE – The percentage of lot area that may be covered in a manner that prevents the percolation of water into the ground.

MEDICAL MARIJUANA – Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania with Act 16.

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

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

Manufactured homes or sections thereof which when assembled or combined are twenty (20') feet or more in width, and which have axles and hitches removed and are placed upon a permanent foundation shall not be classified as mobile homes, but as modular homes.

MODULAR HOME – A single-family dwelling constructed in accordance with State standards and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Unlike a mobile home, a modular home is not manufactured with a permanent hitch or other device to allow re-transport of the unit and does not have wheels or axles permanently attached to its body or frame.

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

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

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

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

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

NONCONFORMING STRUCTURE – A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this zoning ordinance or any amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

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

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

NURSERY – A commercial operation that conducts the retail and/or wholesale sale of plants, trees, or shrubs grown on the site, as well as accessory items such as pots, potting soils, fertilizers, etc., directly related to their care and maintenance.

NURSING HOME – A facility licensed by the State for the housing and Intermediate or fully skilled nursing care of three (3) or more persons needing such care because of old age or a physical illness or disability or a developmental disability.

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

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

OFF-STREET PARKING/LOADING ACCESSORY TO NON-RESIDENTIAL USES – An open area, other than a street or other public way, used for the parking of automobiles by clients or customers.

OFF-STREET PARKING/LOADING ACCESSORY TO RESIDENTIAL USES – An open area, other than a street or other public way, used for the parking of automobiles by residents.

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

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

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

OPEN SPACE – A parcel or parcels of land incorporated within a subdivision that is used for passive and unorganized play areas. This land may include floodplain, wetlands, steep slopes, stormwater basins and drainage areas.

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

OPEN SPACE, PUBLIC – Common open space owned by a government agency or the Township for public recreation.

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

PARK, PUBLIC – A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of the citizenry.

PATIO – An area designed for outdoor living purposes as an accessory use to a structure, which shall be completely unenclosed except for any side which may adjoin a structure or for any fences, shrubs or hedges. Outdoor areas enclosed by a permanent roof shall be considered to be a structure.

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

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

PERMIT – A Document issued by Waverly Township authorizing an applicant to undertake certain activities.

Building Permit – A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any Building Permit Ordinance or Building Code which may be adopted by the Township and authorizing an applicant to commence with said construction, alteration or reconstruction. Such a permit shall not be confused with a zoning permit or with an occupancy permit as required under the terms of this Ordinance.

Zoning Permit – A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance and authorizing an applicant to proceed with said use, building or structure.

Occupancy Permit – A permit issued upon completion of the construction of a structure, or change in use of structure or parcel of land indicating that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the Occupancy Permit.

PERSONAL CARE HOME – A residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania.

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

PERVIOUS CONCRETE PAVEMENT – A cast-in-place, Portland cement-based concrete pavement surface designed to permit the percolation of a percentage of water through its surface.

PERVIOUS SURFACE – Any area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground, including but not limited to vegetation, mulch, non-compacted gravel, and slatted wood.

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

PLANNING COMMISSION – The Waverly Township Planning Commission, Waverly Township, Lackawanna County, Pennsylvania.

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

PRIVATE – Not publicly owned, operated or controlled.

PROFESSIONAL OFFICE – Professional offices shall include the office of a physician, dentist, optometrist, minister, architect, landscape architect, community planner, engineer, insurance agent, realtor, accountant, lawyer, chiropractor and similar practitioners licensed by the Commonwealth of Pennsylvania and/or the United States Government.

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

PUBLIC HEARING – A formal meeting held pursuant to public notice by the governing body, zoning hearing board, or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code.

PUBLIC MEETING – A forum held pursuant to the notice under the act of July 3, 1986 (PL 388, No. 84), known as the Sunshine Act.

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

QUALIFIED PROFESSIONAL – A person, who by education, experience, certification or licensure, has demonstrated expertise in a particular field. For the purpose of this ordinance, fields may include professional engineering, geology, hydrogeology and soil sciences.

RAISING OF LIVESTOCK, SMALL-SCALE – The raising or keeping of livestock for home use or any commercial purpose.

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

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

RECREATIONAL VEHICLE – A vehicle that is designed primarily to transport a person for primarily recreational instead of transportation purposes, or a vehicle that serves as a mobile, temporary dwelling. This may include a vehicle that is self-propelled, towed, or carried by another vehicle, but shall not include camper cabs that fit over pickup trucks. This term shall also include the following: watercraft other than canoes with a hull longer than twelve feet (12'), motor homes, travel trailers, tiny homes (cabins-on-wheels) that do not meet the Uniform Construction Code or HUD manufactured housing standards, all-terrain vehicles, and snowmobiles.

RECYCLING, SMALL SCALE – Whereas the intended customer-base is Waverly Township residents and business, a building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

REDEVELOPMENT – The reconstruction, reuse or change in use of any developed property including, but not limited to, the following: the demolition and clearance of any existing structures, any increase in the intensity of use of already developed land, such as an increase in the number of dwelling units in a structure or change to a commercial or industrial use from a less intensive use.

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

RETAINING WALL – Any fence or wall built or designed to retain or restrain lateral forces or soil or other materials, said materials being similar to the height of the wall on one side.

RESEARCH AND DEVELOPMENT FACILITY – An animal feeding operation with more than 1000 animal units confined on site for more.

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

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

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

RESTAURANT, STANDARD – An establishment that serves ready-to-consume food or drink for compensation in which the clear majority of sales involve customers ordering their food from waitstaff and consuming the food on-premises. A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a “bar or tavern” must be met.

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

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

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

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

SAWMILL – A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SCHOOL, COMMERCIAL – A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under the age of 16.

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

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

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

SETBACK OR BUILDING LINE – The line within a lot defining the required minimum or maximum setback distance between any structure and the adjacent street line.

SEWAGE DISPOSAL SYSTEM, CENTRALIZED – A publicly or privately owned and operated utility system or other system designed to collect, centrally treat and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the Township.

SEWAGE DISPOSAL SYSTEM, COMMUNITY – A publicly owned and operated utility system or other system designed for the collection of sewage from two or more lots and for the treatment or disposal of the sewage on one or more of the lots or at any other site, by on-site (into the soil) disposal techniques in compliance with regulations of the appropriate agency and of the Township.

SEWAGE DISPOSAL SYSTEM, INDIVIDUAL – A utility system or other system designed for the collection, treatment and disposal of sewage from a single lot into the soil or into waters of the Commonwealth, or for conveyance to another site for final disposal.

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

SHED – An accessory structure used primarily for storage purposes, of a wall height no greater than eight feet (8') and that does not exceed one hundred (100) square feet in floor area.

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

SHRUB – An ornamental plant with woody stems that is at least two (2) gallons in depth at planting.

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

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

SIGN – Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, or similar organization.

SITE ALTERATION – Site alterations shall include regrading the existing topography, filling lakes, ponds, marshes or flood plains, removing ground cover or altering water courses.

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

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

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

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

SOLAR ENERGY FARM – An area of land on which the principal use is the capture of solar energy and its conversion to electrical energy or thermal power for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground- or roof-mounted solar modules or other solar related equipment and may include accessory structures and buildings including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant equipment.

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

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

STABLE, PRIVATE – An accessory structure for the keeping of equines owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, PUBLIC – A structure and/or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines and on-site riding trails may also be conducted.

STACK OR CHIMNEY – Any structure enclosing a flue or flues that carries off smoke or exhaust from a furnace located inside or outside of a structure.

STEALTH TECHNOLOGIES – Camouflaging methods applied to wireless communications facilities, communications 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 communications antenna, building-mounted communications antenna painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles, and light poles.

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

STORMWATER MANAGEMENT (facilities) – A designed device, constructed or manufactured, used in a soil or water conservation or management system to retain, regulate or control the flow of water.

STREAM – A watercourse.

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

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

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

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

SUBSTANTIAL CHANGE – (1) Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet for structures located outside of the rights-of-way, or 10 feet for structures located within the rights-of-way, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or (2) any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

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

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

TINY HOME – A single-family residential structure less than four hundred (400) square feet in floor area that meets both the Recreational Vehicle Industry Association (RVIA) safety standards AND the Uniform Construction Code or manufactured housing (HUD) national safety standards. A tiny home that does not meet both the RVIA and UCC or HUD safety standards shall be considered a Recreational Vehicle, as defined by this Ordinance.

TOWER HEIGHT – The height above grade of the fixed portion of a wind generator tower, excluding the wind turbine and blades.

TOWNSHIP – Waverly Township, Lackawanna County, Commonwealth of Pennsylvania.

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

TRACTOR TRAILER, TRACTOR OF A – A truck with a minimum of three (3) axles that is intended to pull a trailer, as defined below, and not to carry goods itself.

TRACTOR TRAILER, TRAILER OF A – A commercial vehicle twenty feet (20') or more in length that is not self-propelled, intended to haul materials, vehicles, goods, gases, or liquids, and intended to be pulled by a tractor, as defined above. This definition does not include recreational vehicles.

TRAIL – A way designed for and used by equestrians, pedestrians, cyclists, or other non-motorized means of transport.

UNDERSTORY TREE – A tree, either single-stemmed or multi-stemmed (clump form), which has a caliper of at least 1½ inches at planting and is of a species which, at maturity, can be expected to reach a height of at least 10 feet.

URBAN AGRICULTURE – The activities that include the growing, processing, marketing, distribution, and consumption of food and other products through growing plants and raising

animals in and around an urban area. Such activities can be public, private, or commercial and can exist in a variety of forms, including community gardens, market gardens, and backyard animal keeping. When done successfully, these activities also produce environmental, health, social, and economic effects that can positively impact a community and increase its resilience.

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

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

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

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

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

WATER SUPPLY SYSTEM, CENTRALIZED – A public utility system or other centralized water supply system designed to transmit water from a common source to users, in compliance with the requirements of the appropriate State Agency or regulations of the Township, whichever may be more stringent. Any system not deemed a centralized water supply system shall be deemed an on-lot system.

WETLANDS – An area of land where the presence of water (at least during part of the year) determines the soil characteristics of the site and the species of vegetation growing on the site; said areas meeting the criteria of the U. S. Fish and Wildlife Service, and being regulated by Pa. DEP and the U. S. Army Corps of Engineers.

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

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

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

WIND TURBINE – An aggregation of parts including the base, tower, generator, rotor, blades, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy.

WIRELESS COMMUNICATIONS ANTENNA – An accessory wireless communication facility,

including, but not limited to, data collection units, antennas, nodes, and related equipment for the transmission, reception, distribution, or accommodation of wireless communications services. This term shall not include the support structures for these accessory facilities, nor does it include supporting structures on residential dwellings for private, noncommercial amateur purposes, including, but not limited to, ham radios and citizen band radios.

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

WIRELESS SUPPORT STRUCTURE – A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a non-tower based wireless communications facility if approved by the Township.

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

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

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

ZONING HEARING BOARD – The Zoning Hearing Board of Waverly Township.

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

ARTICLE 3
District Regulations and Zoning Map

Section 3.1 – Designation and Intent of Districts

A. Zoning Districts and Purpose Statements.

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

1. Agricultural/Conservation/Recreational Districts.
 - (a) **RUR – Rural Resource District:** To preserve agricultural lands and woodlands, to encourage conservation of open space and rural landscapes, and to allow for limited low-density residential uses and limited business uses compatible with working lands.
2. Residential Districts.
 - (a) **R-1 – Rural Single Family Residential District:** To accommodate low-density single-family detached dwellings on existing arterial and collector roads, with no public sewer and water, and in conjunction with rural agricultural activities.
 - (b) **R-2 – Rural Suburban Single Family Residential District:** To allow for low-density neighborhoods of single-family detached dwellings, exclusively accessed from and with frontage on local streets, and largely serviced by on-site wastewater treatment.
 - (c) **R-3 – Suburban Single Family Residential District:** To arrange for low-density neighborhoods of single-family detached dwellings, largely serviced by public sewer and water.
 - (d) **R-4 – Village Single Family Residential District:** To permit medium-density neighborhoods of single-family attached and detached dwellings along or just off arterial and collector roads and to provide opportunities for limited commercial development on properties fronting along these roads.
3. Mixed Use Districts.
 - (a) **V – Village Mixed Use District:** To accommodate medium-density clusters of low-impact, neighborhood-oriented residential and non-residential land uses in rural communities, ranging from single-family dwellings to professional offices to small institutional buildings.
4. Industrial Districts:
 - (a) **CI – Commercial-Industrial District:** To create a zone where small-scale, low-impact light industrial uses and general commercial development coexist along arterial and collector roads.

B. Overlay Districts and Purpose Statements.

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

Section 3.2 – Zoning Map

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

Section 3.3 – Interpretation of District Boundaries

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

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

- H. Where physical features existing on the ground are alleged to be at variance with those shown on the Zoning Map or in other circumstances not covered by subsections A through G above, it shall be the function of the Zoning Officer to interpret the Zoning Map.
- I. Where one (1) or more district boundary lines divides a lot held in single ownership, the regulations of the district comprising the greater proportion of the lot shall apply.

Section 3.4 – District Quick Views

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

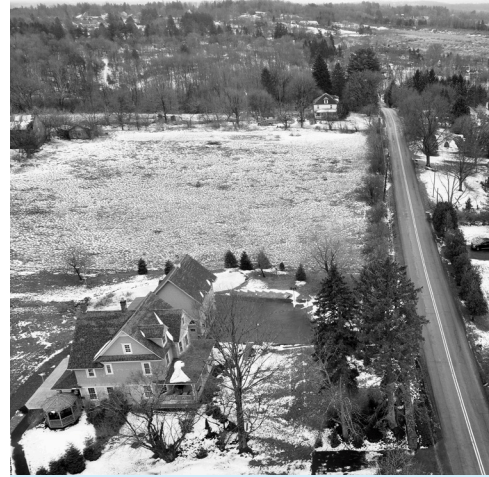
- A. Table of Principal Use Regulations (organized by land use group);
- B. Table of Accessory Use Regulations;
- C. Dimensional Regulations for Lots and Buildings;
- D. Preferred Lot Configurations; and
- E. Other Requirements.

Rural Zoning Transect

The 4 municipalities of Waverly, Newton, West Abington and Dalton, are classified as Rural. Within this category, 9 of the 24 districts appear to exist. To note, all nine districts might not be applicable to each of the municipalities. For example, district 1, 4, 5 could be found in West Abington, while district 2,3,6,7,12,21 are not existing in West Abington.



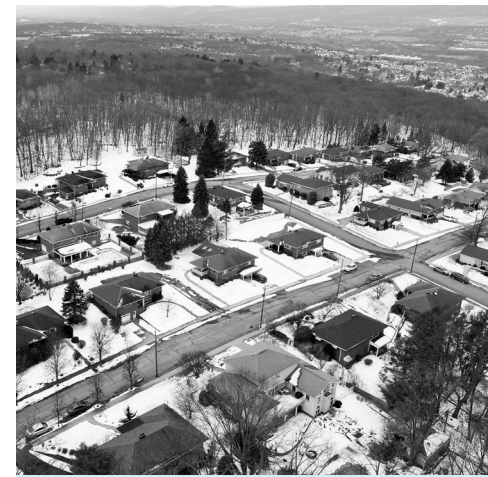
1 Rural Resource



4 Rural Single Family Residential



5 Rural Suburban Single Family Residential



6 Suburban Single Family Residential



7 Village Single Family Residential



12A Village Mixed Use



21 Commercial - Industrial

1 Rural Resource

Rural



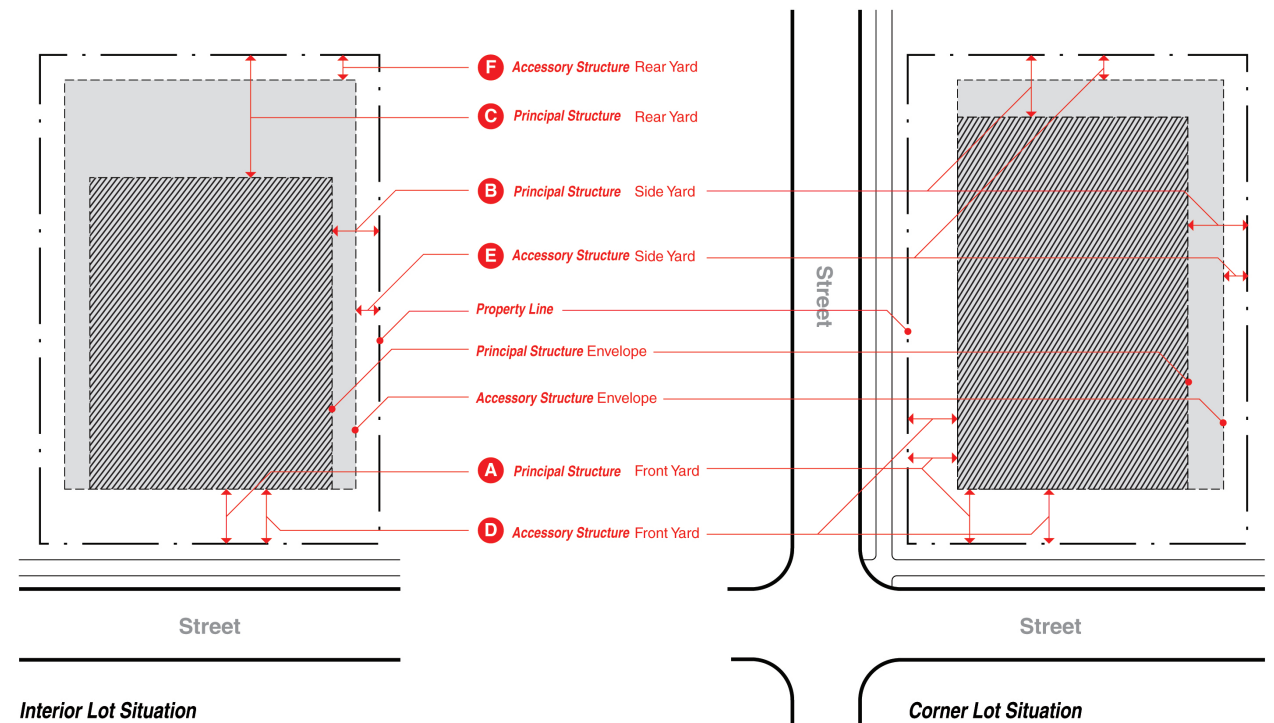
LOT DIMENSIONS STANDARDS

LOT SIZE	87,120 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	50 ft
at Building Setback Line	150 ft		A Front Yard, on Arterial Street	50 ft
at Street Line			B Side Yard	20 ft
HEIGHT			C Rear Yard	40 ft
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	20%			

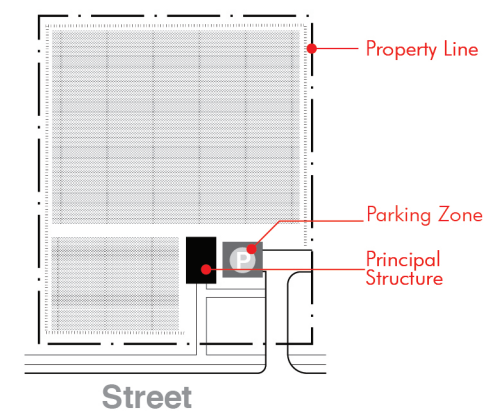
PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Bed-and-breakfast	P	Nature preserve	P
Cluster residential development	P	Group home	P
Conservation Residential	P	Tiny home	P
Dwelling: conversion apartment	SE	Assisted-care accessory apartment unit	SE
Dwelling: single-family detached	P	Carport, garage, or shed, private	P
Craftsman-Artisan Workshop	SE	Home based business, no impact	P
Farm Café	SE	Home based business, other	SE
Farm Stand	P	Community center or library	P
Farmers Market	SE	Crop storage, as an accessory use to farming	P
Kennel	SE	Day care center, child	P
Spa	SE	Day care home, family	P
Oil and Gas Extraction	P	Day care home, group	P
Recycling, Small Scale	SE	Dormitory	P
Agricultural Processing Artisan	P	Emergency services	P
Crop farming	P	Essential services	P
Equestrian Farm	P	Farm Stands	P
Gentlemen's Farm	P	Flea market	P
Raising of livestock, small-scale	P	Greenhouse/nursery	P
Riding academy and stables	SE	Off-street parking/loading accessory to residential uses	P
Urban Agriculture	P	Satellite dish/antenna	P
Essential services (Major/Minor)	P	Sawmill	P
Park, Public	P	Solar energy device	P
Place or worship/assembly	SE	Stables	P
Trails	P		
Cemetery	P		
Conservation	P		
Forestry	P		
		Wind turbine	P
		Wireless communications antenna	P
		Private indoor tennis	SE
		Private indoor recreation	SE
		Guest home	P

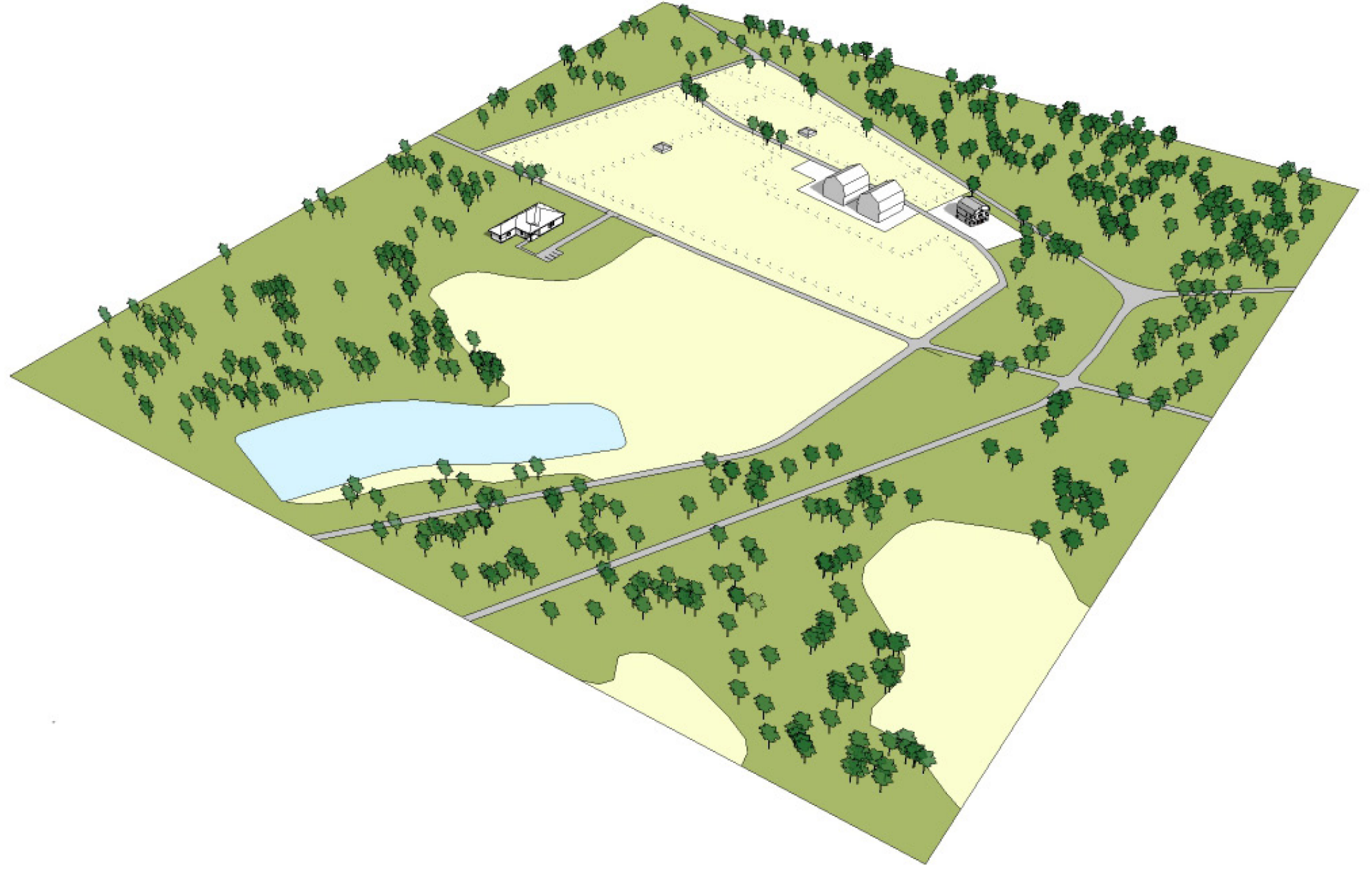
P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception



PREFERRED LOT CONFIGURATIONS



PUBLIC REALM STANDARDS



4 Rural Single Family Residential

Rural



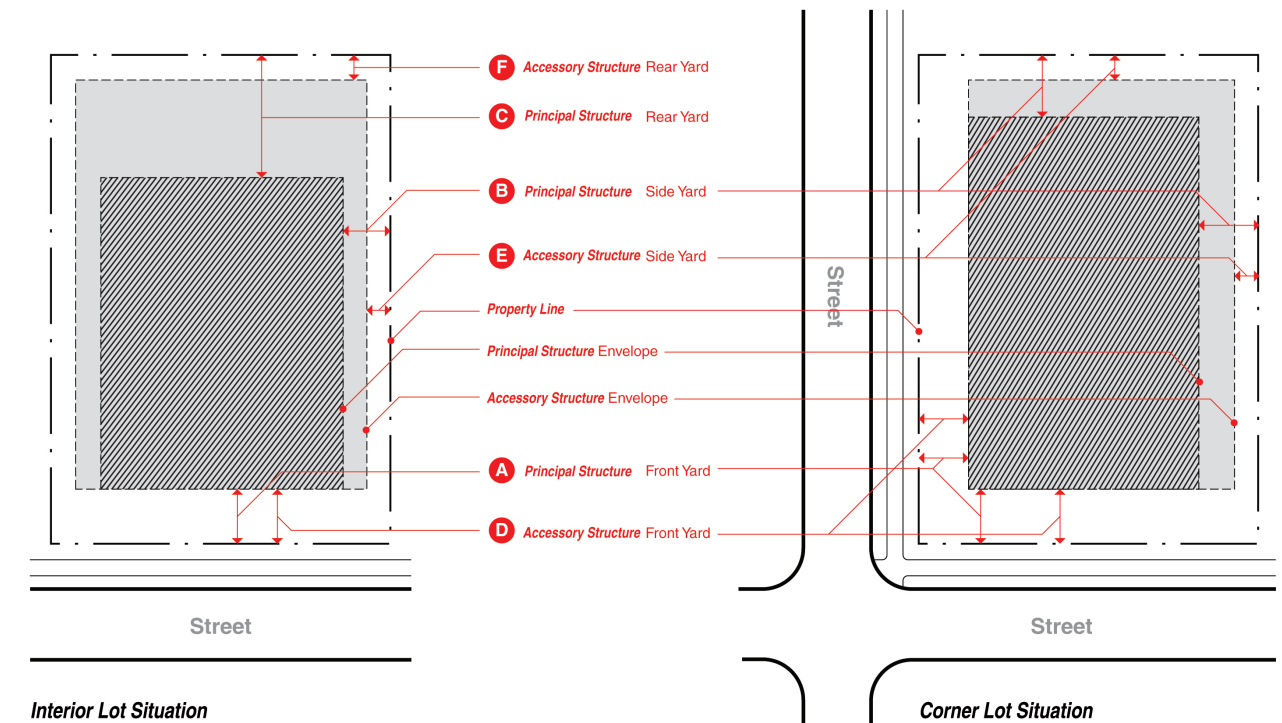
PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Bed-and-breakfast	P	Assisted-care accessory apartment unit	SE
Cluster residential development	P	Carport, garage, or shed, private	P
Conservation Residential	P	Home based business, no impact	P
Dwelling: conversion apartment	SE	Home based business, other	SE
Dwelling: single-family detached	P	Community center or library	P
Oil and Gas Extraction	P	Crop storage, as an accessory use to farming	P
Urban Agriculture	SE	Essential services	P
Essential services (Major/Minor)	P	Farm Stands	P
Municipal/government facility or use	P	Flea market	P
Park, Public	P	Greenhouse/nursery	P
Place or worship/assembly	SE	Off-street parking/loading accessory to residential uses	P
Trails	P	Satellite dish/antenna	P
Conservation	P	Sawmill	P
Forestry	P	Solar energy device	P
Nature preserve	P	Stables	P
Group home	P	Wind turbine	P
		Wireless communications antenna	P
		Private indoor tennis	SE
		Private indoor recreation	SE
		Guest home	P

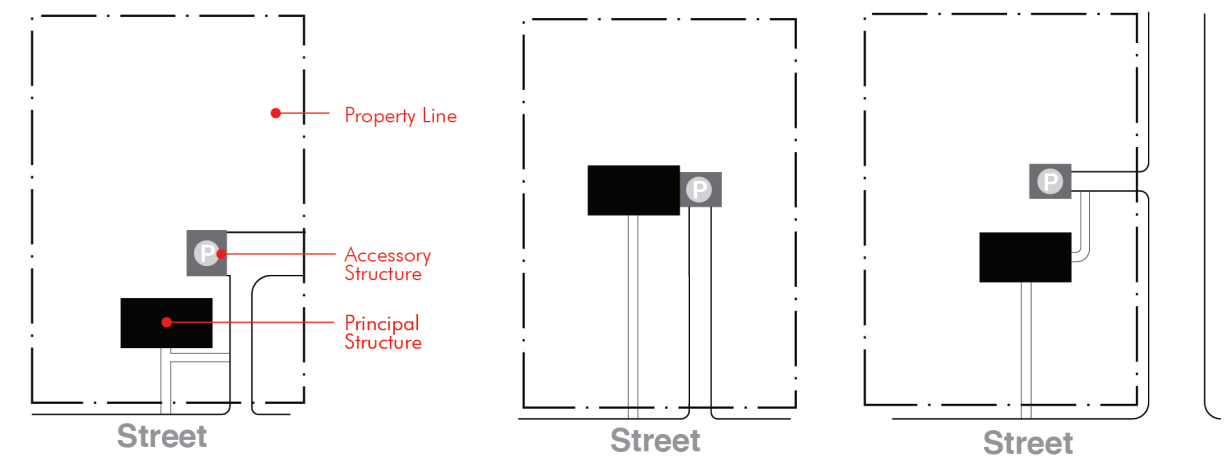
P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception

LOT DIMENSIONS STANDARDS

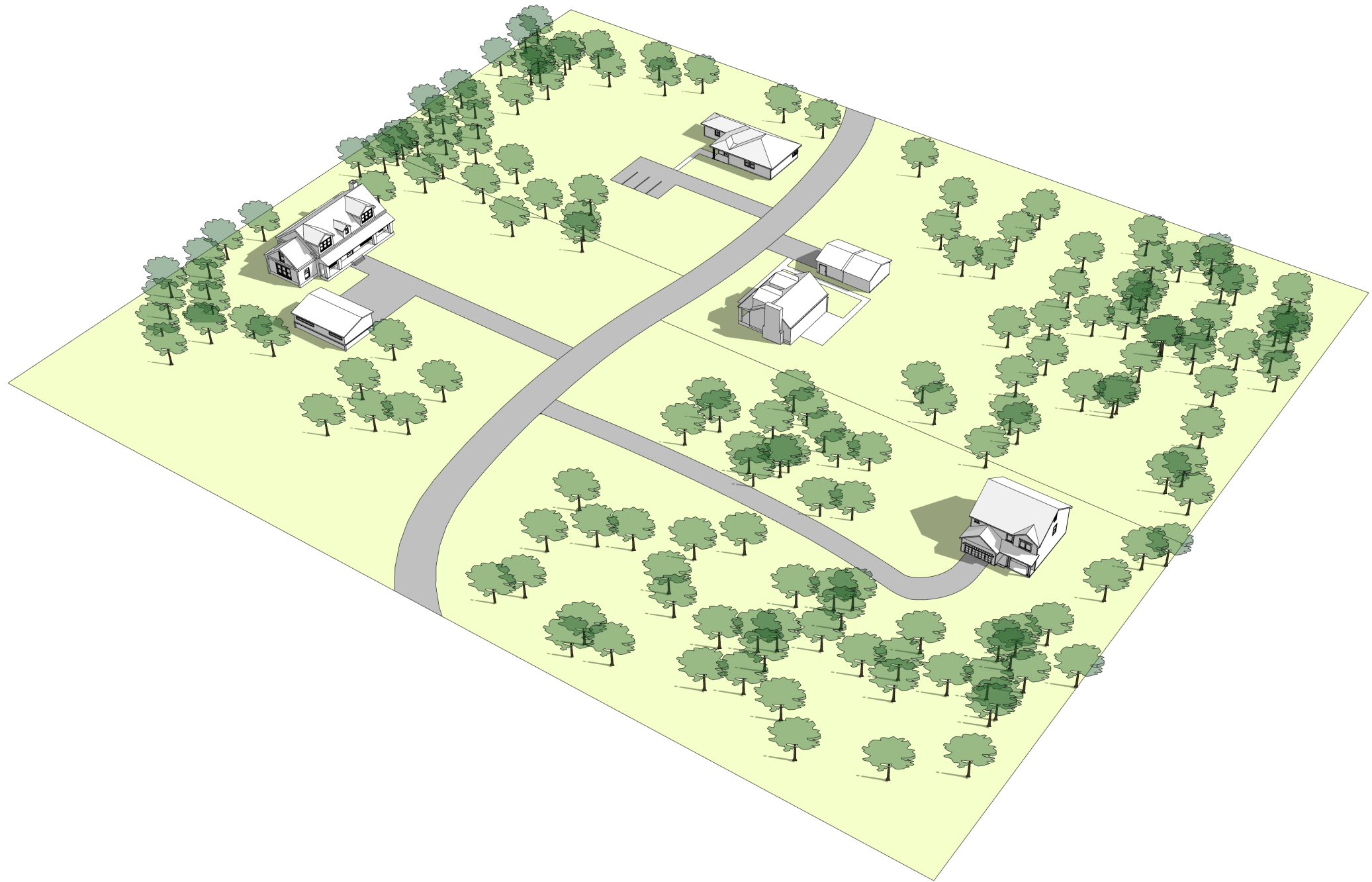
LOT SIZE	87,120 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	50 ft
at Building Setback Line	150 ft		A Front Yard, on Arterial Street	50 ft
at Street Line		B Side Yard	20 ft	
HEIGHT		C Rear Yard	40 ft	
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	20%			



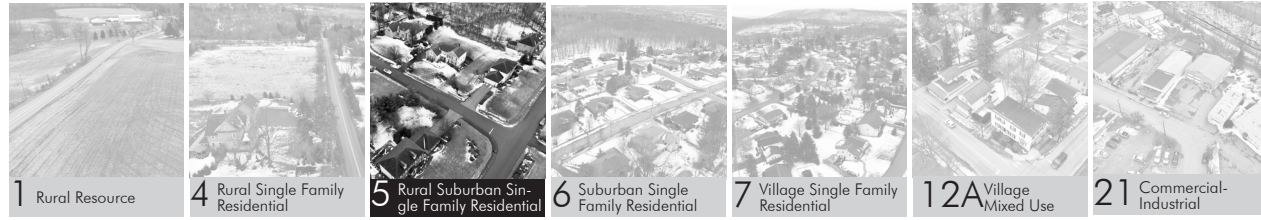
PREFERRED LOT CONFIGURATIONS



PUBLIC REALM STANDARDS



5 Rural Suburban Single Family Residential Rural

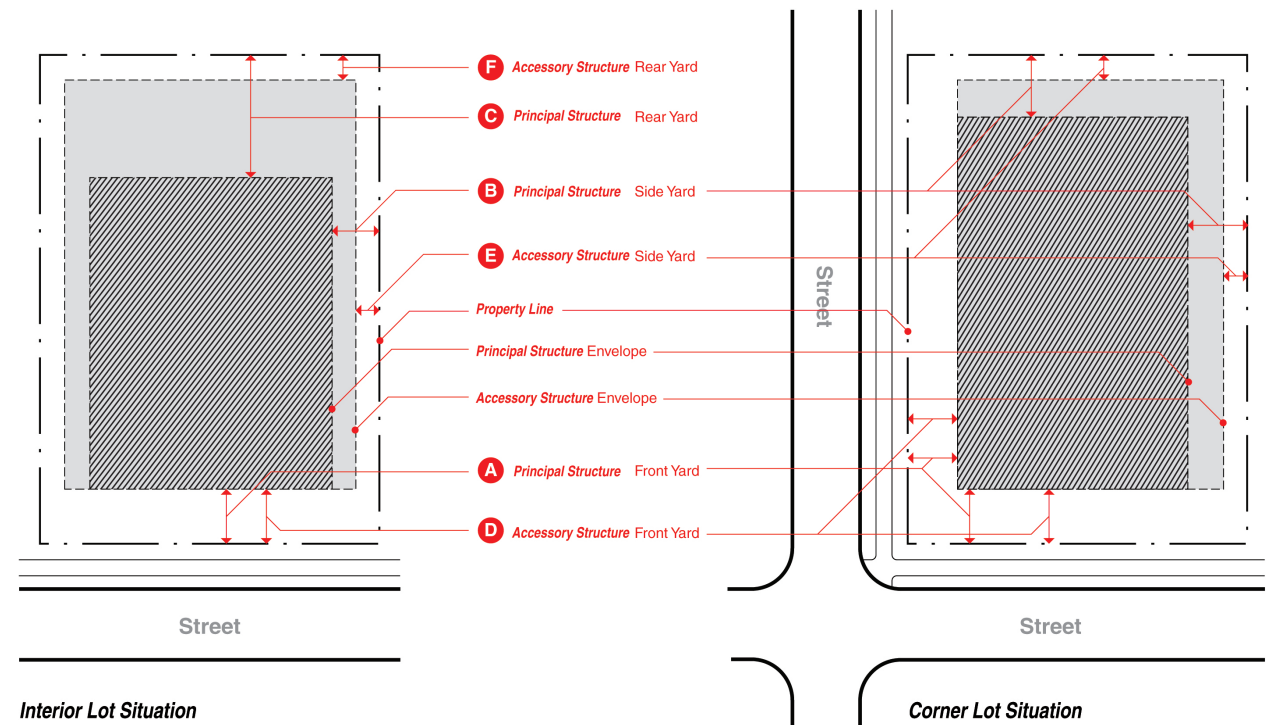


LOT DIMENSIONS STANDARDS

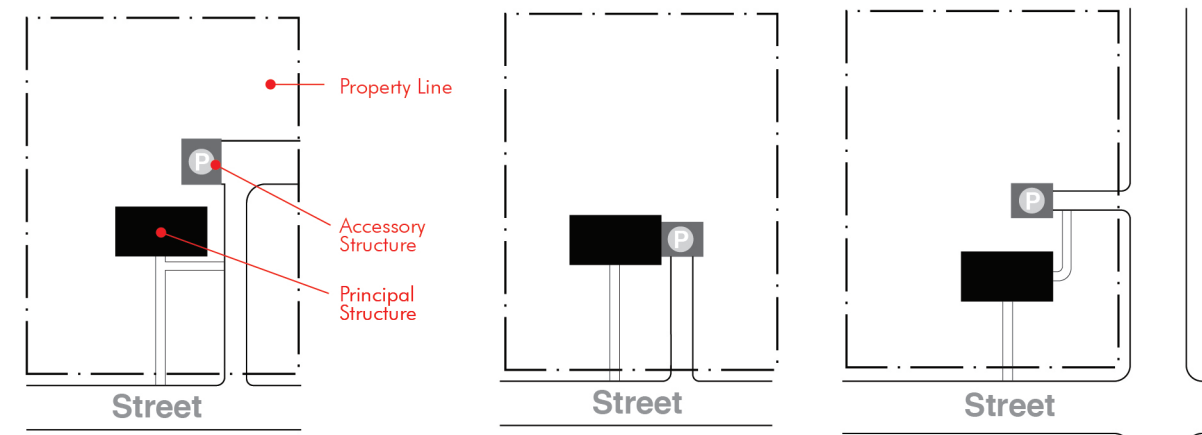
LOT SIZE	43,560 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	50 ft
at Building Setback Line	100 ft		A Front Yard, on Arterial Street	50 ft
at Street Line		B Side Yard	20 ft	
HEIGHT		C Rear Yard	40 ft	
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	20%			

PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Cluster residential development	P	Assisted-care accessory apartment unit	SE
Dwelling: single-family detached	P	Carport, garage, or shed, private	P
Dwelling: two-family	P	Home based business, no impact	P
Oil and Gas Extraction	P	Home based business, other	SE
Essential services (Major/Minor)	P	Essential services	P
Trails	P	Flea market	P
Conservation	P	Greenhouse/nursery	P
Forestry	P	Off-street parking/loading accessory to residential uses	P
Group home	P	Satellite dish/antenna	P
		Sawmill	P
		Solar energy device	P
		Stables	P
		Wireless communications antenna	P
		Private indoor tennis	SE
		Private indoor recreation	SE
		Guest home	P

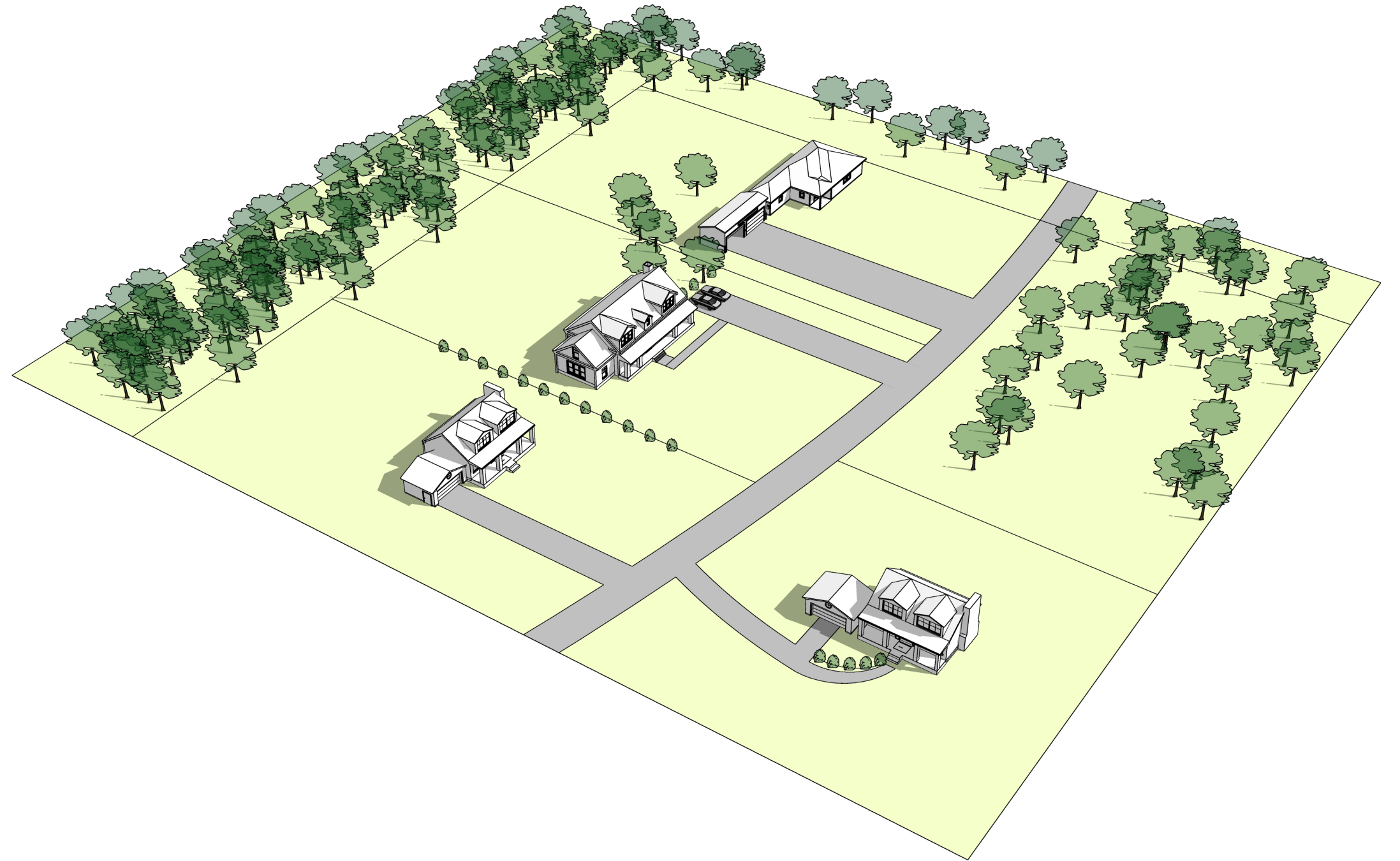


PREFERRED LOT CONFIGURATIONS



P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception

PUBLIC REALM STANDARDS



6 Suburban Single Family Residential

Rural



PERMITTED USES

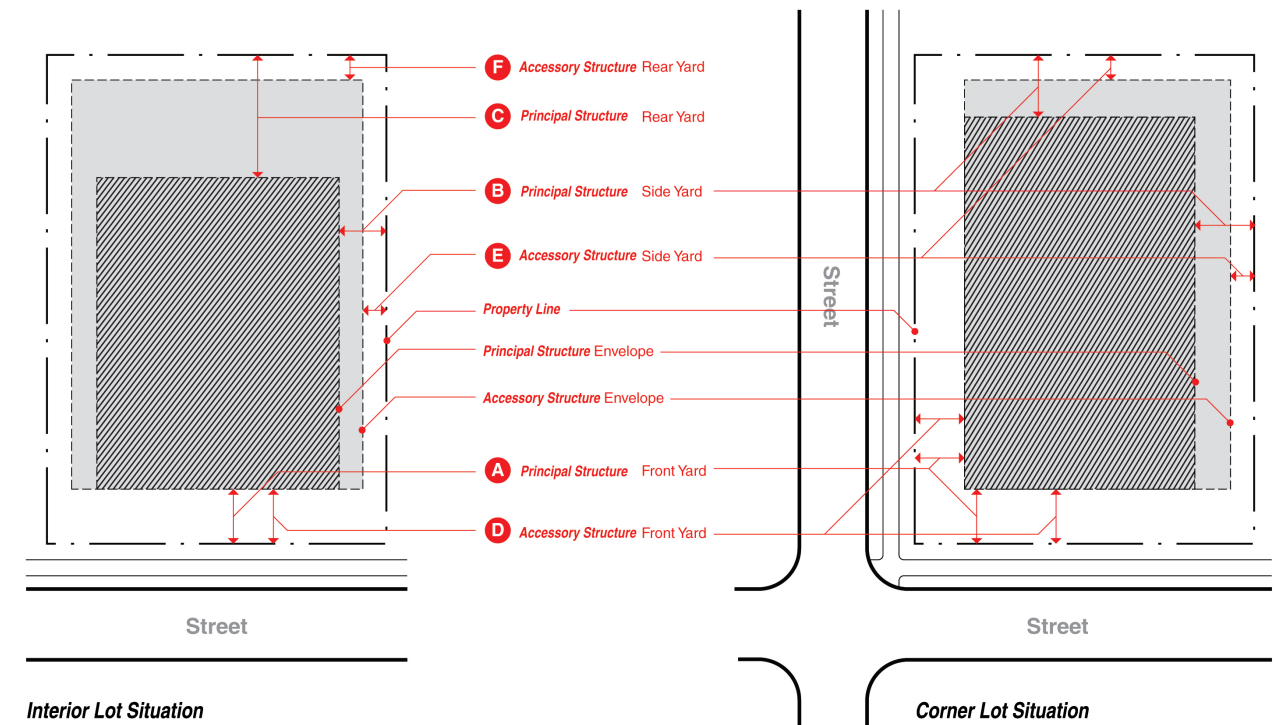
PRINCIPAL USES		ACCESSORY USES	
Cluster residential development	P	Assisted-care accessory apartment unit	SE
Dwelling: single-family detached	P	Carport, garage, or shed, private	P
Dwelling: townhouse	P*	Home based business, no impact	P
Dwelling: two-family	P*	Home based business, other	SE
Oil and Gas Extraction	P	Flea market	P
Essential services (Major/Minor)	P	Greenhouse/nursery	P
Place or worship/assembly	SE	Off-street parking/loading accessory to residential uses	P
Trails	P	Satellite dish/antenna	P
Conservation	P	Solar energy device	P
Forestry	P	Stables	P
Golf course or country club	P	Private indoor tennis	SE
Golf driving range	P	Guest home	P
Group home	P	Private indoor tennis	SE
Commercial indoor recreation	SE		

* See Section 5.22

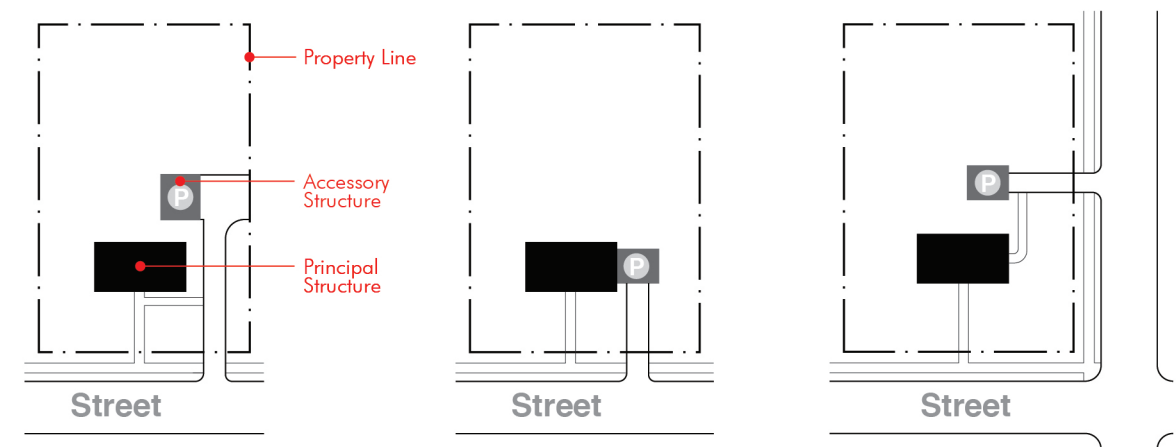
P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception

LOT DIMENSIONS STANDARDS

LOT SIZE	10,890 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	30 ft
at Building Setback Line	80 ft		A Front Yard, on Arterial Street	30 ft
at Street Line			B Side Yard	10 ft
HEIGHT		C Rear Yard	40 ft	
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	20%			



PREFERRED LOT CONFIGURATIONS



PUBLIC REALM STANDARDS



7 Village Single Family Residential

Rural

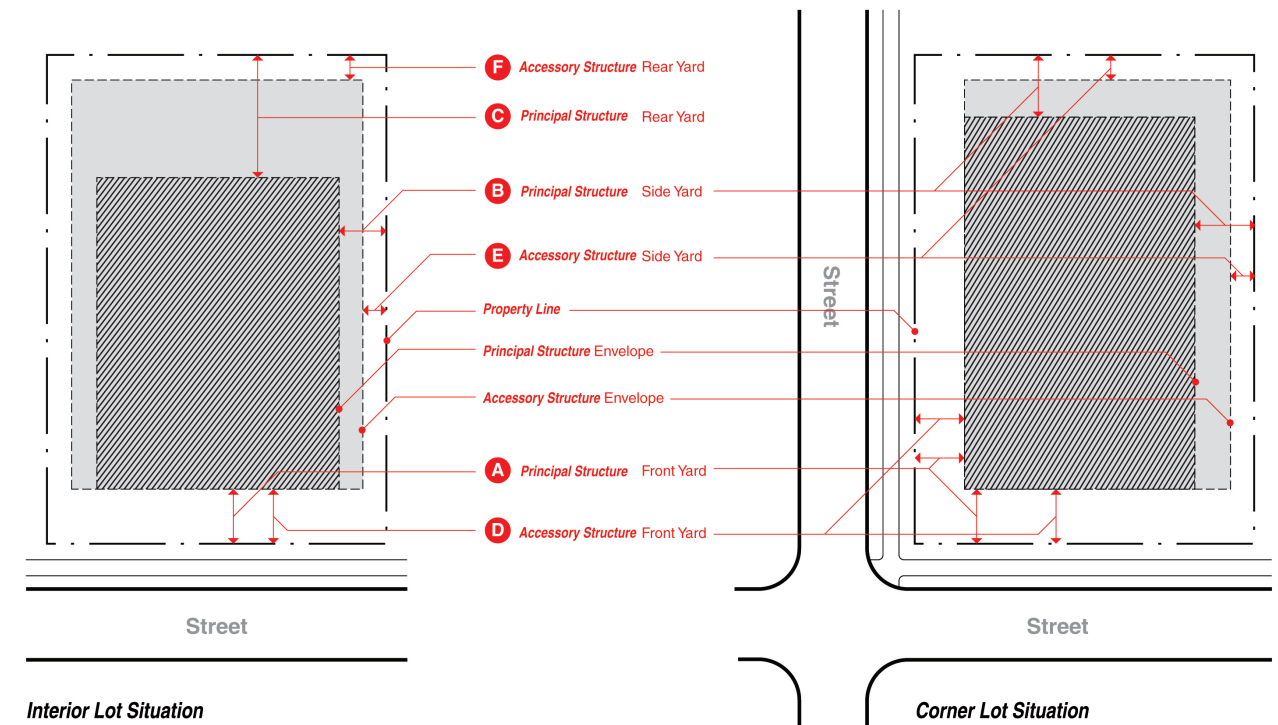


LOT DIMENSIONS STANDARDS

LOT SIZE	10,890 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	30 ft
at Building Setback Line	80 ft		A Front Yard, on Arterial Street	30 ft
at Street Line		B Side Yard	10 ft	
HEIGHT		C Rear Yard	40 ft	
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	30%			

PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Dwelling: single-family detached	P	Assisted-care accessory apartment unit	SE
Oil and Gas Extraction	P	Carport, garage, or shed, private	P
Essential services (Major/Minor)	P	Home based business, no impact	P
Place or worship/assembly	SE	Home based business, other	SE
School, Public	P	Flea market	P
Trails	P	Greenhouse/nursery	P
Conservation	P	Satellite dish/antenna	P
Forestry	P	Private indoor tennis	SE
Group home	P	Private indoor recreation	SE
		Guest home	P



PUBLIC REALM STANDARDS



12A Village Mixed Use

Rural



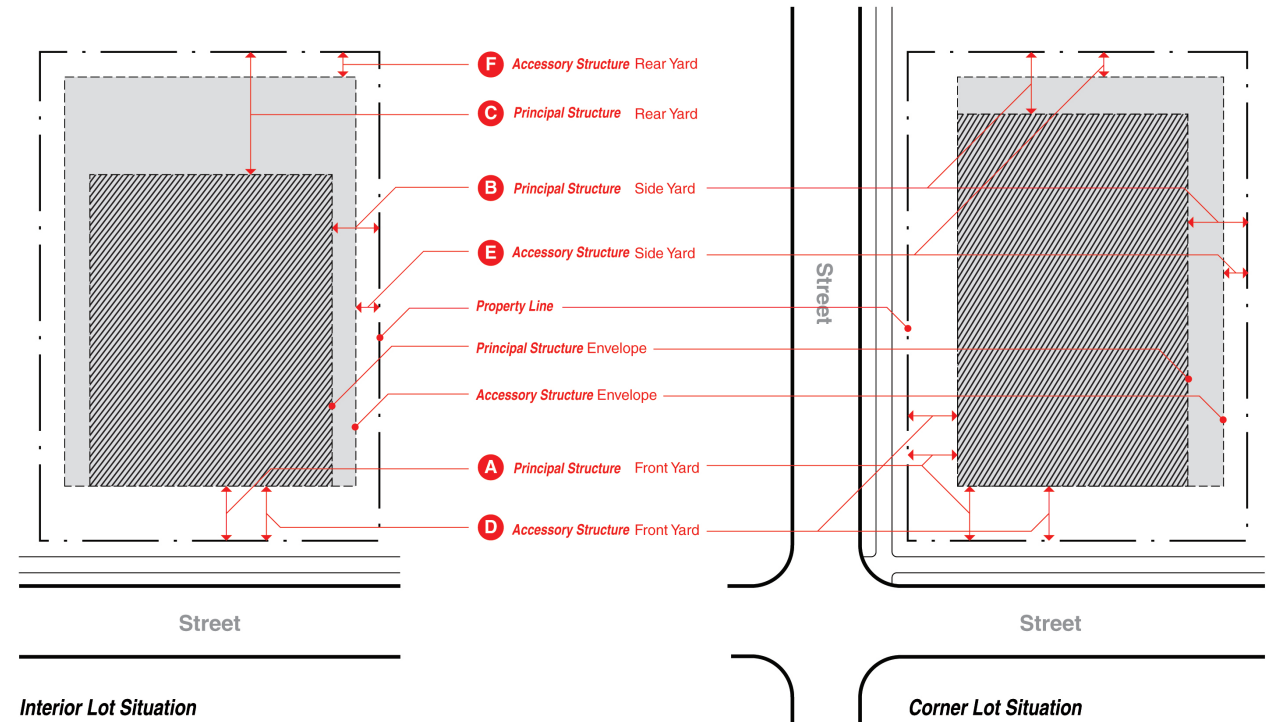
LOT DIMENSIONS STANDARDS

LOT SIZE	4,000 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	10 ft
at Building Setback Line	20 ft		A Front Yard, on Arterial Street	10 ft
at Street Line		B Side Yard	0 ft	
HEIGHT		C Rear Yard	0 ft	
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building				
Impervious Surface	70%			

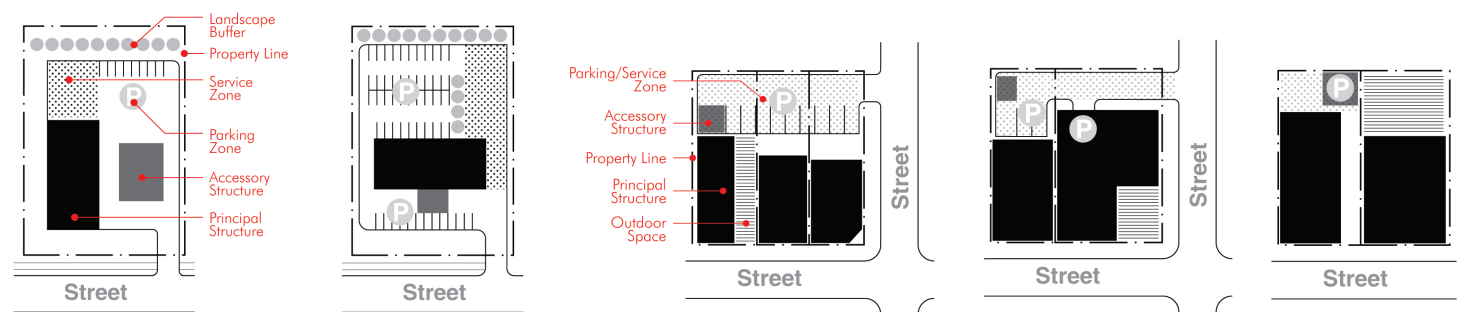
PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Bed-and-breakfast	SE	Assisted-care accessory apartment unit	SE
Dwelling: single-family detached	P	Carport, garage, or shed, private	P
Bakery	SE	Home based business, no impact	P
Bar or tavern	SE	Home based business, other	SE
Brew Pub	SE	Community center or library	P
Business service establishment	SE	Day care center, child	P
Convenience store	SE	Day care home, family	P
Galleries	P	Day care home, group	P
Mixed use structure (retail and apartments)	SE	Emergency services	P
Office, business or professional	SE	Flea market	P
Office, medical or dental	SE	Greenhouse/nursery	P
Restaurant, Café	P	Satellite dish/antenna	P
Restaurant, carryout	P	Private indoor tennis	SE
Small Scale Grocery	P	Private indoor recreation	SE
Small Scale Retail	P	Guest home	P
Spa	SE		
Studio or school for special training	P		
Tasting Rooms	SE		
Oil and Gas Extraction	P		
Essential services (Major/Minor)	P		
Community center or library	P		
Community Garden	P		
School, Private	P		
Trails	P		
Conservation	P		
Forestry	P		
Day care center, child	P		
Group home	P		
Professional Uses	P		

P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception



PREFERRED LOT CONFIGURATIONS



PUBLIC REALM STANDARDS



21 Commercial - Industrial

Rural

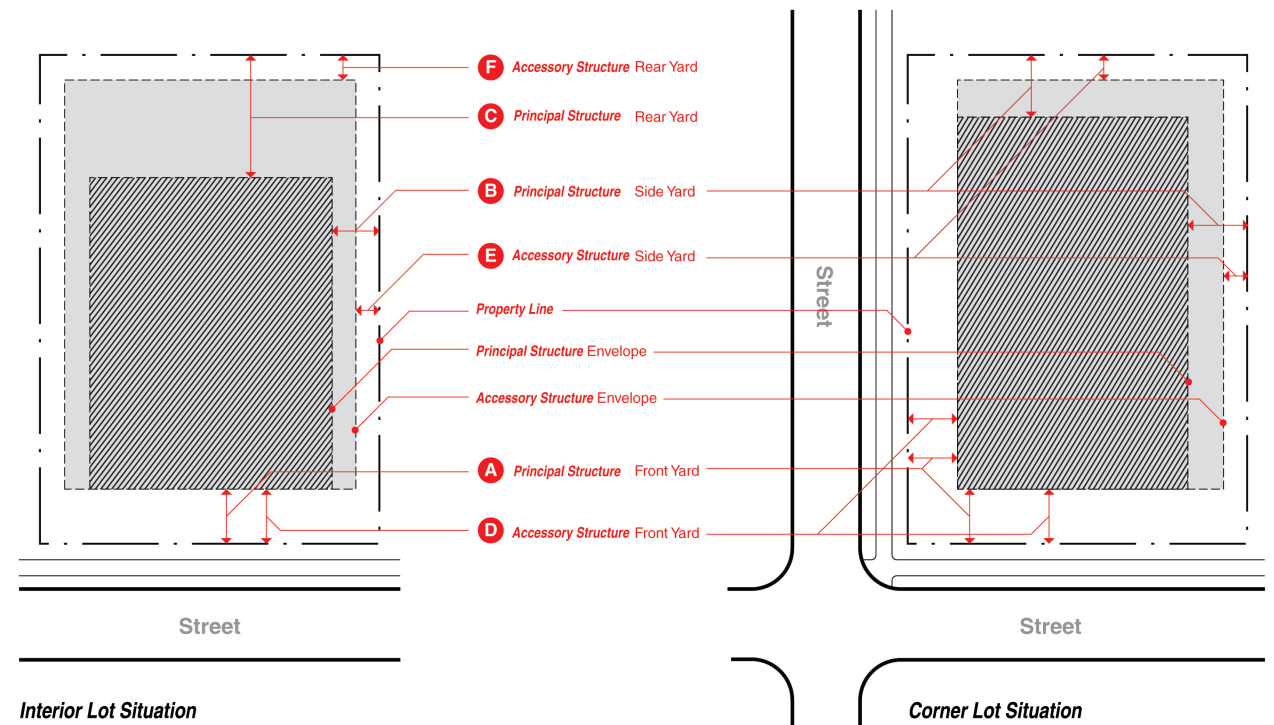


LOT DIMENSIONS STANDARDS

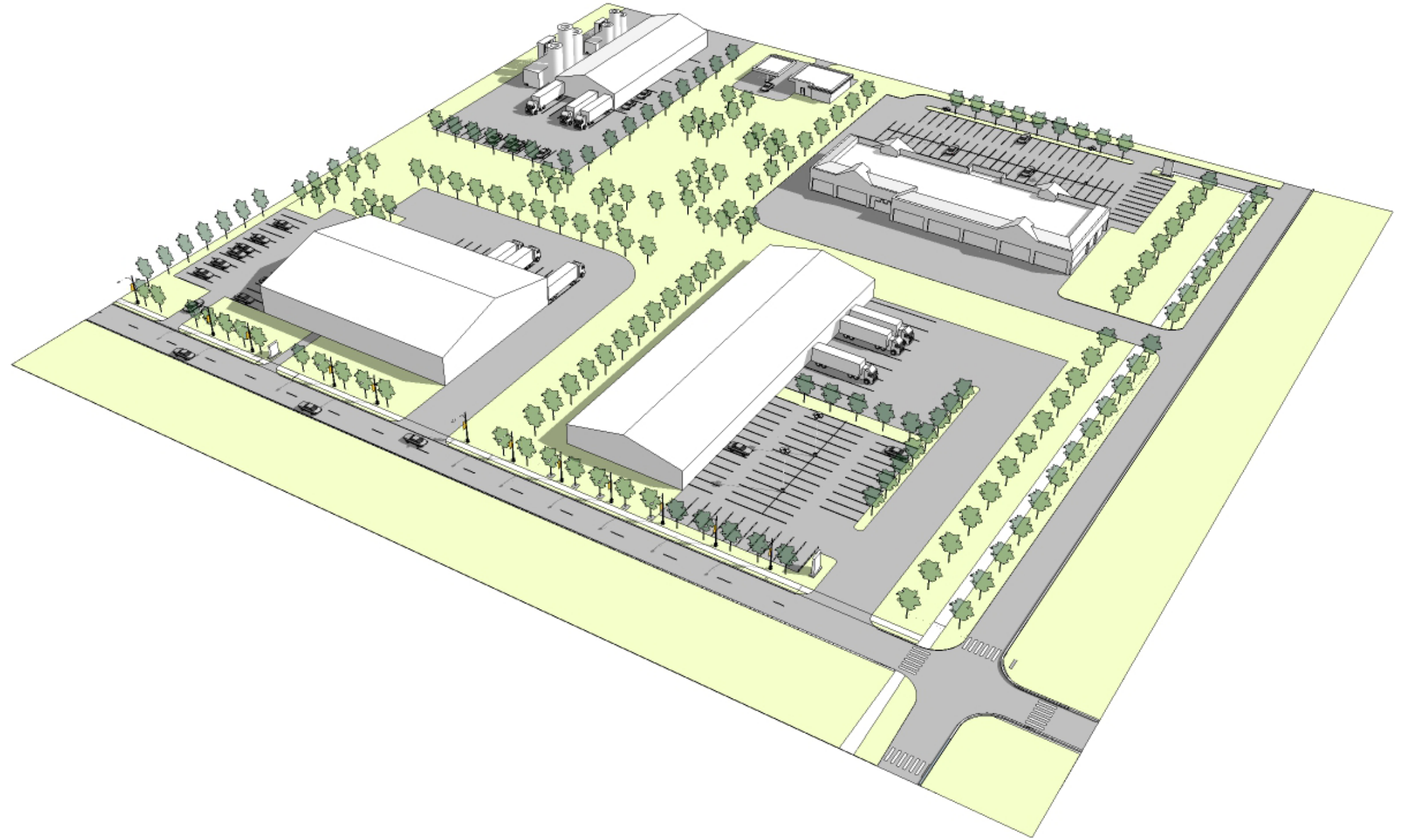
LOT SIZE	43,560 sf	YARD SETBACK		
LOT WIDTH		PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	30 ft
at Building Setback Line	100 ft		A Front Yard, on Arterial Street	30 ft
at Street Line			B Side Yard	15 ft
HEIGHT			C Rear Yard	50 ft
Principal Structure	35 ft			
Accessory Structure				
COVERAGE				
Building	%			
Impervious Surface	50%			

PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Animal hospital or veterinary clinic	P	Assisted-care accessory apartment unit	SE
Bakery	P	Carport, garage, or shed, private	P
Bank or financial institution	P	Home based business, no impact	P
Bar or tavern	P	Home based business, other	SE
Brew Pub	P	Car or truck wash	P
Business service establishment	P	Crop storage, as an accessory use to farming	P
BYOB club	P	Day care center, child	P
Commercial recreation facility, indoor	P	Day care home, family	P
Craftsman-Artisan Workshop	P	Day care home, group	P
Landscape/nursery, retail	SE	Dormitory	P
Personal service establishment	P	Drive-thru facility	P
Restaurant	P	Emergency services	P
Restaurant, Café	P		
School, commercial	P		
Self-storage facility	SE		
Shooting/archery range, indoor	P		
Studio or school for special training	P		
Tasting Rooms	P		
Vehicle repair garage	SE		
Manufacturing, light	SE		
Oil and Gas Extraction	P		
Recycling, Small Scale	SE		
Research and development facility	SE		
Warehouse	SE		
Wholesale establishment	SE		
Essential services (Major/Minor)	P		
Solar energy farm	P		



PUBLIC REALM STANDARDS



ARTICLE 4 Overlay Regulations

Section 4.1 – Heritage Overlay

A. Boundaries.

The Heritage Overlay, as delineated on the Zoning Map, directly corresponds to the Waverly Historic District, created in 2004 pursuant to the authority contained in the Historic District Act (Act of June 13, 1961, P.L. 282, No. 167 as amended, 53 P.S. § 8001, et. seq.) and listed in the National Register of Historic Places.

B. Purposes and Provisions.

All purposes and provisions of the Township of Waverly Historic District Ordinance (Ordinance No. 115-2004) shall apply to the Heritage Overlay. This includes the design guidelines found in Article V of the Historic District Ordinance, which shall apply to buildings, structures, and properties located within the Overlay.

C. Additional Guidelines.

Any recommendations from the Scranton-Abingtons Planning Association Comprehensive Plan related to historic resources, historic preservation, and the Waverly Historic District shall be considered as general guidelines.

Section 4.2 – Floodplain Overlay

A. Statutory Authorization

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township of Waverly does hereby order as follows.

B. General Provisions

1. Intent

The intent of this section is to:

- (a) Promote the general health, welfare, and safety of the community.
- (b) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (c) Minimize danger to public health by protecting water supply and natural drainage.

- (d) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
 - (e) Comply with federal and state floodplain management requirements.
2. Applicability. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Waverly unless a Permit has been obtained from the Floodplain Administrator.
 3. Abrogation and Greater Restrictions. This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.
 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.
 5. Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Township of Waverly or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

C. Administration

1. Designation of the Floodplain Administrator. The Township Zoning Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Township Director of Public Works.

2. Permits Required. A Permit shall be required before any construction or development is undertaken within any area of the Township of Waverly.
3. Duties and Responsibilities of the Floodplain Administrator
 - (a) The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
 - (b) Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
 - (c) In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
 - (d) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
 - (e) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
 - (f) In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
 - (g) The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
 - (h) The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.

- (i) The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
 - (j) The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2015 IBC and the 2015 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
4. Application Procedures and Requirements
- (a) Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Waverly. Such application shall contain the following:
 - (1) Name and address of applicant.
 - (2) Name and address of owner of land on which proposed construction is to occur.
 - (3) Name and address of contractor.
 - (4) Site location including address.
 - (5) Listing of other permits required.
 - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
 - (b) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - (1) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (2) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) adequate drainage is provided so as to reduce exposure to flood hazards;
 - (4) structures will be anchored to prevent floatation, collapse, or lateral movement;

- (5) building materials are flood-resistant;
 - (6) appropriate practices that minimize flood damage have been used; and
 - (7) electrical, heating, ventilation , plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (c) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (1) A completed Permit Application Form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 - (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2015 IBC or the 2015 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
 - (4) The following data and documentation:
 - a. detailed information concerning any proposed floodproofing measures and corresponding elevations.

- b. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
- c. documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 4.02 A) will not increase the base flood elevation at any point.
- d. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 4.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
- e. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.
- f. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
- g. detailed information needed to determine compliance with Section 5.03 F., Storage, and Section 5.04, Development Which May Endanger Human Life, including:
 - 1. the amount, location and purpose of any materials or substances referred to in Sections 5.03 F. and 5.04 which are intended to be used, produced, stored or otherwise maintained on site.
 - 2. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.
- e. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- f. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and

sedimentation control.

- (d) Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.
5. **Review of Application by Others.** A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.
6. **Changes.** After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.
7. **Placards.** In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.
8. **Start of Construction.** Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.
9. **Enforcement**
 - (a) **Notices.** Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any

regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (1) be in writing;
 - (2) include a statement of the reasons for its issuance;
 - (3) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
 - (4) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
 - (5) contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.
- (b) Penalties. Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Township of Waverly, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such.
- (c) Appeals
- (1) Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
 - (2) Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.
 - (3) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

D. Identification of Floodplain Areas

1. Identification. The identified floodplain area shall be:
 - (a) any areas of Township of Waverly, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated August 5, 2020 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Waverly and declared to be a part of this ordinance.
2. Description and Special Requirements of identified Floodplain Areas. The identified floodplain area shall consist of the following specific areas:
 - (a) The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
 - (b) The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - (2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.

- e. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
 - f. 11. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (c) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.
- (d) The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
3. Changes in Identification of Area. The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.
4. Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township of Waverly and any party

aggrieved by this decision or determination may appeal to the Board of Supervisors. The burden of proof shall be on the appellant.

5. Jurisdictional Boundary Changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

E. Technical Provisions

1. General

(a) Alteration or Relocation of Watercourse

- (1) encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- (3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

(b) When Township of Waverly proposes to permit the following encroachments:

- (1) any development that causes a rise in the base flood elevations within the floodway; or
- (2) any development occurring in Zones AI-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- (3) alteration or relocation of a stream (including but not limited to installing culverts and bridges) the applicant shall (as per 44 CFR Part 65.12):
 - a. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - b. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or

revised floodway reflecting the post-project condition.

- c. Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- (c) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

2. Elevation and Floodproofing Requirements

(a) Residential Structures

- (1) In AE, AI -30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
- (2) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
- (3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the 2015 International Building Code (IBC) and in the 2015 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

(b) Non-residential Structures

- (1) In AE, AI-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

- (2) In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
- (3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood- Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
- (5) Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
 - a. An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
 1. Mechanical equipment such as sump pumps and generators,
 2. Flood shields and closures,
 3. Walls and wall penetrations, and
 4. Levees and berms (as applicable)
 - b. Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all

conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

1. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 2. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 3. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 4. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 5. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- (6) The design and construction standards and specifications contained in the 2015 International Building Code (IBC) and in the 2015 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.
- (c) Space below the lowest floor
- (1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and

constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

- (2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (d) Historic Structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

- (e) Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
 - (1) the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
 - (2) floor area shall not exceed 200 square feet.
 - (3) The structure will have a low damage potential.
 - (4) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
 - (5) power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
 - (6) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
 - (7) sanitary facilities are prohibited.

- (8) the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
 - (9) For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Section 4.2.H. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
 - (10) Prohibit the storage of Hazardous Materials in accessory structures.
- 3. Design and Construction Standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:
 - (a) Fill
 - (1) If fill is used, it shall:
 - a. extend laterally at least fifteen (15) feet beyond the building line from all points;
 - b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 - c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - d. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
 - e.
 - f. be used to the extent to which it does not adversely affect adjacent properties.
- 4. Drainage Facilities
 - (a) Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings.

The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

5. Water and Sanitary Sewer Facilities and Systems
 - (a) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 - (b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
 - (c) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - (d) The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
6. Other Utilities
 - (a) All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
7. Streets
 - (a) The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.
8. Storage
 - (a) All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.
9. Placement of Buildings and Structures
 - (a) All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
10. Anchoring

- (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- (b) All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

11. Floors, Walls and Ceilings

- (a) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- (b) Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- (c) Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- (d) Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

12. Paints and Adhesives

- (a) Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
- (b) Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- (c) All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

13. Electrical Components

- (a) Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- (b) Separate electrical circuits shall serve lower levels and shall be dropped from above.

14. Equipment

- (a) Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement
- (b) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

15. Fuel Supply Systems

- (a) All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

16. Uniform Construction Code Coordination

- (a) The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.
 - (1) International Building Code (IBC) 2015 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 - (2) International Residential Building Code (IRC) 2015 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

17. Development That May Endanger Human Life

- (a) 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:
 - (1) will be used for the production or storage of any of the following dangerous materials or substances; or,
 - (2) 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,
 - (3) will involve the production, storage, or use of any amount of radioactive substances;
 - (4) shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
 - Ammonia
 - Benzene
 - Calcium carbide
 - Carbon disulfide
 - Celluloid
 - Chlorine
 - Hydrochloric acid
 - Hydrocyanic acid
 - Magnesium
 - Nitric acid and oxides of nitrogen
 - Petroleum products (gasoline, fuel oil, etc.)
 - Phosphorus
 - Potassium
 - Sodium
 - Sulphur and sulphur products
 - Pesticides (including insecticides, fungicides, and rodenticides)
 - Radioactive substances, insofar as such substances are not otherwise regulated.
- (b) Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 5.04 (A), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with Sections 5.01, 5.02 and 5.03.
- (c) Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 5.04 (A) above, shall be built in accordance with Sections 5.01, 5.02 and 5.03 including:
- (1) elevated, or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation, and
 - (2) designed to prevent pollution from the structure or activity during the course of a base flood. Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.
18. Special Requirements for Subdivisions and Development
- (a) All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain

Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

19. Special Requirements for Manufactured Homes

- (a) Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
 - (1) placed on a permanent foundation;
 - (2) elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;
 - (3) and anchored to resist flotation, collapse, or lateral movement.
- (b) Equipment requirement:
 - (1) Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist flotation, collapse, and lateral movement.
 - (2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
- (c) Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2015 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
- (d) Consideration shall be given to the installation requirements of the 2015 IBC, and the 2015 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

20. Special Requirements for Recreational Vehicles

- (a) A. Recreational vehicles in Zones A, AI-30, AH and AE must either:
 - (1) be on the site for fewer than 180 consecutive days, and
 - (2) be fully licensed and ready for highway use, or
 - (3) meet the permit requirements for manufactured homes in Section 5.06.

F. ACTIVITIES REQUIRING SPECIAL PERMITS

1. General. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the Township of Waverly:

- (a) 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:
 - (1) Hospitals
 - (2) Nursing homes
 - (3) Jails or prisons
- (b) The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

2. Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

- (a) A written request including a completed Permit Application Form.
- (b) A small scale map showing the vicinity in which the proposed site is located.
- (c) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - (1) north arrow, scale and date;
 - (2) topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;

- (3) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - (4) the location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - (5) the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - (6) the location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
 - (7) the location of all proposed buildings, structures, utilities , and any other improvements; and
 - (8) any other information which the municipality considers necessary for adequate review of the application.
- (d) Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- (1) sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 - (2) for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - (3) complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
 - (4) detailed information concerning any proposed floodproofing measures, including the Flood Emergency Operation Plan and the Inspection and Maintenance Plan;
 - (5) cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - (6) profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - (7) plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

- (e) The following data and documentation:
 - (1) certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - (2) certification from a registered professional engineer , architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;
 - (3) a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
 - (4) a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
 - (5) a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
 - (6) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
 - (7) where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
 - (8) any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
 - (9) an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

- 3. Application Review Procedures. Upon receipt of an application for a Special Permit by the Township of Waverly the following procedures shall apply in addition to those of Section 4.2.C:
 - (a) Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or

certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township of Waverly Planning Commission and Township of Waverly engineer for review and comment.

- (b) If an application is received that is incomplete, the Township of Waverly shall notify the applicant in writing, stating in what respect the application is deficient.
 - (c) If the Township of Waverly decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
 - (d) If the Township of Waverly approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
 - (e) Before issuing the Special Permit, the Township of Waverly shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department , to review the application and decision made by the Township of Waverly.
 - (f) If the Township of Waverly does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.
 - (g) If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Township of Waverly and the applicant, in writing, of the reasons for the disapproval, and the Township of Waverly shall not issue the Special Permit.
4. Special Technical Requirements
- (a) In addition to the requirements of Section 4.2.E of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Section 4.2.E of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
 - (b) No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - a. the structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

- b. the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
 - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- 5. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township of Waverly and the Department of Community and Economic Development.

G. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

- 1. Existing Structures
 - (a) The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 7.02 shall apply.
- 2. Improvements. The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:
 - (a) No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
 - (b) No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 - (c) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
 - (d) The above activity shall also address the requirements of the 34 PA Code, as amended and the 2015 IBC and the 2015 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
 - (e) Within any Floodway Area/District (See Section 4.02 A), no new construction or development shall be allowed, unless the appropriate

permit is obtained from the Department of Environmental Protection Regional Office

- (f) Within any AE Area/District without Floodway (See Section 4.02 B), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

H. VARIANCES

1. General. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township of Waverly Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
2. Section 8.02 Variance Procedures and Conditions. Requests for variances shall be considered by the Township of Waverly Zoning Hearing Board in accordance with the procedures contained in Section 3.10 and the following:
 - (a) No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
 - (b) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 - (c) No variances shall be granted for a proposed accessory structure that exceeds 600 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
 - (d) Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Section 4.2.F) or to Development Which May Endanger Human Life.
 - (e) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (f) In granting any variance, the Township of Waverly Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
 - (g) Whenever a variance is granted, the Township of Waverly 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) In reviewing any request for a variance, the Township of Waverly Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause.
 - (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.
- (i) A complete record of all variance requests and related actions shall be maintained by the Township of Waverly Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- (j) Not with standing any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

I. DEFINITIONS

- 1. General. Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.
- 2. Specific Definitions
 - (a) Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
 - (b) Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

- (c) Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
- (d) Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, AI -30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
- (e) Basement - any area of the building having its floor below ground level on all sides.
- (f) 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.
- (g) Declaration of Land Restriction (Non-Conversion Agreement) - A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
- (h) 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.
- (i) Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (j) Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (k) Flood - a temporary inundation of normally dry land areas.
- (l) Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of

special flood hazards and the risk premium zones applicable to the community.

- (m) Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- (n) Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- (o) Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (p) Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (q) Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (r) Historic structures - any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) Certified or preliminarily 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;
 - (3) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - a. 1. By an approved state program as determined by the Secretary of the Interior or
 - b. 11. Directly by the Secretary of the Interior in states without approved programs.

- (s) Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 4.01 and 4.02 for the specifics on what areas the community has included in the Identified Floodplain Area.
- (t) Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
- (u) Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
- (v) Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (w) New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after September 30, 1981 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- (x) New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- (y) 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.
- (z) Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated September

30, 1981, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

- (aa) Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated September 30, 1981, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
- (bb) Recreational vehicle - a vehicle which is:
 - (1) built on a single chassis;
 - (2) not more than 400 square feet, measured at the largest horizontal projections;
 - (3) designed to be self-propelled or permanently towable by a light-duty truck,
 - (4) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (cc) Regulatory Flood Elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1
- (dd) $\frac{1}{2}$) feet. The freeboard safety factor also applies to utilities and ductwork.
- (ee) Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- (ff) Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, AI -A30, AE, A99, or, AH.
- (gg) Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on

the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (hh) Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (ii) Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
- (jj) Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
- (kk) Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (ll) Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
- (mm) Variance- A grant of relief by a community from the terms of a floodplain management regulation.

(nn) Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Section 4.3 – Conservation Design Development Overlay:

A. Boundaries

Conservation Design Development is mandatory for all major subdivisions and major land developments involving more than three (3) acres of land in all zoning districts and shall comply with this §4.3.

B. Purposes and Development Options

1. Conservation Design Development Overlay District: The Conservation Design Development Overlay District is hereby created to promote the conservation of open lands in the township. This Overlay District shall apply to all areas of the township, and in addition to all applicable standards of this ordinance, the requirements of §4.3 shall apply. Conservation Design Development shall be mandatory for all major subdivisions and major land developments, as defined in the Waverly Township Subdivision and Land Development Ordinance as amended, involving more than three (3) acres of land
2. Purposes - In conformance with the Pennsylvania Municipalities Planning Code the purposes of this section, among others, are as follows:
 - (a) To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
 - (b) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
 - (c) To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
 - (d) To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
 - (e) To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's Comprehensive Plan, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.

- (f) To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan.
 - (g) To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 - (h) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
 - (i) To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
 - (j) To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
 - (k) To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
 - (l) To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.
3. By-Right Development Options - In order to achieve these purposes, this section provides flexibility in designing new subdivisions and/or developments by allowing five (5) forms of by-right development referred to as options, which are summarized as follows:
- (a) Option 1 — Functional Lots with No Greenway Land, providing for standard subdivisions or land developments based on functional or net acreage. No greenway land is designated but sensitive environmental areas contained in the lots are not fully calculated as part of the minimum lot size. This option is NOT permitted in the Rural Single Family Residential and Rural Suburban Single Family Residential zoning districts.
 - (b) Option 2 — Neutral Density and Basic Conservation, providing for uses at the density permitted by the underlying zoning district. Greenway lands comprise not less than fifty percent (50%) of the tract.
 - (c) Option 3 — Enhanced Density and Greater Conservation, providing for higher density uses and a larger percentage (sixty percent [60%] or more) of greenway land in more flexibly designed layouts.
 - (d) Option 4 — Country Properties, providing for very low densities appropriate to rural situations, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses. This option is ONLY permitted in the Rural Single Family Residential and the Rural Suburban

Single Family Residential zoning districts.

- (e) Option 5 — Hamlet or Village, providing for traditional small-scale lots and the largest percentage (seventy percent [70%] or more) of greenway land in a hamlet- or village-design layout. This option is ONLY permitted in the Suburban Single Family Residential zoning district.

C. General Regulations.

The design of all new major subdivisions and major land development over three (3) acres in area shall be governed by the following standards:

- 4. Ownership – The tract of land shall be controlled by the applicant and developed as a single entity.
- 5. Site Suitability – As evidenced by the Existing Resources and Site Analysis Plan, as required by the Waverly Township Subdivision and Land Development Ordinance, the tract of land shall be suitable for supporting development in terms of environmental conditions, its size and configuration.
- 6. Combining the Design Options – The development options described in this section may be combined as the discretion of the Board of Supervisors, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance as compared with applying a single-option to the property.
- 7. Sensitive Area Disturbance – The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Existing Resources and Site Analysis Plan.

D. Use Regulations.

- 8. Uses within Conservation Design Developments are permitted as follows:
 - (a) Single Family
 - (b) Townhouses; see Section 5.22 C 2
 - (c) Two Family Detached Dwellings; see Section 5.22 C 2
- 9. Two-Family Detached Dwellings and Town Houses in the Suburban Single Family Residential zoning district – Two-family detached dwellings (side-by-side units) and townhouses, as defined by this Ordinance, are permitted in the Suburban Single Family Residential district only when part of a Conservation Design Development, and the number of two-family detached dwellings and/or townhouses shall not exceed thirty percent (30%) of the total number of residential dwelling units proposed. (i.e. A conservation development in the Suburban Single Family Residential district with a yield of 40 total units may be designed as either 40 single-family detached dwellings or as 28 single-family detached dwellings and 12 two-family detached dwellings and/or townhouses.)

E. Densities, Required Open Space Percentages, and Dimensional Standards.

Densities, required open space percentages, and dimensional standards for Conservation Design

Developments shall be as set forth under Article 3.

Minimum Densities per Use or Dwelling Unit and Required Open Space:

(Density requirement in square feet. Example: 43,560 = 43,560 square feet)

Zoning District*	Option 1 Functional Lots, No Greenway Land	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
R-1	N/A	87,120	65,340	435,600	N/A
R-2	43,560	43,560	32,670	N/A	21,780
R-3	20,000	20,000	15,000	N/A	10,000
R-4	20,000	20,000	15,000	N/A	N/A
C-1	20,000	20,000	15,000	N/A	N/A
C-2	43,560	43,560	32,670	N/A	N/A
Minimum % Acreage of Open Space Required	N/A ^[1]	50%	60%	N/A ^[2]	70%

* Densities listed are for uses not regulated under Article 7 of this Ordinance. Densities for uses regulated under Article 7 remain as required by the applicable sections (§701 or §702). N/A = Not Applicable.

^[1] No open space provided; however, densities are based on functional or new acreage where environmentally sensitive areas are not fully calculated as part of the minimum lot size.

^[2] No open space provided however, permanent conservation easements that prevent future development and/or subdivision are provided on large, estate lots.

Minimum Dimensional Standards

Single-Family Detached Dwellings & Two-Family Dwellings [1] Minimum Individual Lot Area (In square footage. Example 20,000 = 20,000)					
Minimum Density Requirement Per Dwelling Unit	Option 1 Functional Lots	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
87,120 sq. ft. (2 acres)	[2]	20,000	N/A	[3]	N/A
65,340 sq. ft. (1.5 acres)	N/A	N/A	15,000	[3]	N/A
43,560 sq. ft. (1 acre)	[2]	15,000	N/A	[3]	N/A
32,670 sq. ft. {0.75 acres)	N/A	N/A	10,000	[3]	N/A
21,780 sq. ft. (0.5 acres)	N/A	N/A	N/A	[3]	7,500
20,000 sq. ft.	[2]	7,500	N/A	[3]	N/A
15,000 sq. ft.	N/A	N/A	5,000	[3]	N/A
10,000 sq. ft.	N/A	N/A	N/A	[3]	2,500

Notes:
N/A = Not applicable for density option.
[1] No Individual minimum lot area required for townhouses. Nonresidential uses minimum lot area the same as minimum density per use under Schedule III unless regulated by Article 7, of which those standards shall apply.
[2] Minimum lot area same as Area Per Dwelling Unit under Schedule II.

[3] Minimum density not applicable. Minimum lot area per dwelling = 10 acres. This option is allowed in R-1 district only. See §604 f) for design standards.

<i>Single-Family Detached Dwellings & Two-Family Dwellings [1] Lot Dimensions, Setbacks, and Coverage for Options 2, 3, & 5</i>			
Minimum Lot Size	Minimum Lot Width / Depth	Minimum Setbacks	Maximum Lot Coverage
20,000 sq. ft.	Width 100' Depth 200'	Front 40' Rear 50' Side 15'	20%
15,000 sq. ft.	Width 100' Depth 150'	Front 40' Rear 40' Side 15'	30%
10,000 sq. ft.	Width 100' Depth 100'	Front 35' Rear 25' Side 15'	40%
7,500 sq. ft.	Width 75' Depth 100'	Front 30' Rear 25' Side 10'	50%
5,000 sq. ft.	Width 50' Depth 100'	Front 30' Rear 20' Side 10'	80%
2,500 sq. ft.	Width 30' Depth 80'	Front 20' Rear 10' Side 5'	90%

Notes:
[1] Townhouse: 35' separation between principal buildings; 18' minimum lot width (25' if two-car garage); 25' minimum front yard. Nonresidential uses minimum lot standards the same as Schedule III unless regulated by Article 7, of which those standards shall apply.

SAMPLE YIELD PLANS

Total net Site Areas: 72 acres **Zoning District:** R-1

Minimum Density per Unit: 87, 120 square feet (2 acres)

	Option 1 Functional Acres	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
Total Units	Not applicable for zone district	36	48	7	Not applicable for zone district
% Percent Acreage of Open Space		50%	60%	0%; however conservation easements in effect	

Total net Site Areas: 36 acres **Zoning District:** R-2

Minimum Density per Unit: 43,560 square feet (1 acre)

	Option 1 Functional Acres	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
Total Units	36	36	48	Not applicable for zone district	72
% Percent Acreage of Open Space	0%	50%	60%		70%

Total net Site Areas: 18 acres **Zoning District:** R-3

Minimum Density per Unit: 20,000 square feet

	Option 1 Functional Acres	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
Total Units	39	39	52	Not applicable for zone district	78
% Percent Acreage of Open Space	0%	50%	60%		70%

Total net Site Areas: 6 acres **Zoning District:** R-4

Minimum Density per Unit: 20,000 square feet

	Option 1 Functional Acres	Option 2 Neutral Density	Option 3 Enhanced Density	Option 4 Country Properties	Option 5 Hamlet or Village
Total Units	13	13	17	Not applicable for zone district	Not applicable for zone district
% Percent Acreage of Open Space	0%	50%	60%		

F. Design Standards for Options 2, 3, and 5

10. *Dwelling Lots* - Dwelling lots shall not encroach upon Primary Conservation Areas, and the layout shall respect Secondary Conservation Areas as identified In the Waverly Township Subdivision and Land Development Ordinance.

11. *Tract Perimeter Setbacks* - All new dwellings shall be setback from the tract boundaries of the development as follows:

	Single- and Two-Family	Townhouses
External road rights-of-way:	75 feet	150 feet
Other Tract boundaries:	50 feet	100 feet

12. *Exterior Views* - Views of dwellings from exterior roads and abutting property shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping that meets the landscaping requirements of this ordinance and the Waverly Township Subdivision and Land Development Ordinance.

13. *Dwelling Access* - Dwellings shall generally be accessed from interior roads rather than from exterior roads bordering the tract.

14. *Primary Conservation Areas* - The primary conservation areas, as identified in §402.4 B. 1. of the Waverly Township Subdivision and Land Development Ordinance, shall be included in the conservation area.

15. *Conservation Open Space Standards*

- A) The conservation open space shall be in the largest blocks possible and shall be laid out to ensure that an interconnected network of open space will be provided.
- B) The conservation open space shall be owned and maintained in accordance with §508 of the Waverly Township Subdivision and Land Development Ordinance.
- C) At least twenty-five percent (25%) of the conservation open space shall be available for active and passive recreation and the enjoyment of the development residents.
- D) Pedestrian and maintenance access shall be provided to the conservation open space. At least one (1) centrally located access point to the open space shall be provided for every fifteen (15) dwelling units.

G. Design Standards for Option 4- Country Properties (R-1district only)

In the R-1 zoning district, subdivisions that are comprised of twenty (20) acres or more may be developed into conservation (estate) lots without providing common open space. The following standards shall apply:

16. Reduced and flexible design standards and specifications as set forth in Article 6 of the Waverly Township Subdivision and Land Development Ordinance may be

applied to the development at the discretion of the Board of Supervisors and Township Engineer.

- 17. Each conservation lot shall contain a minimum of two (2) acres of unconstrained net land area.
- 18. Permanent conservation easements and future subdivision restrictions shall be established. Ownership and maintenance shall be in accordance with §508 of the Waverly Township Subdivision and Land Development Ordinance.
- 19. Dimensional lot standards shall be as follows:

<i>Option 4</i> <i>Country Properties – Dimensional Standards</i>	
Minimum Individual Lot Area	10 acres
Minimum Lot Width at Building	200 feet
Minimum Street Frontage	100 feet
Maximum Lot Depth to Width	5:1
Minimum Front Setback	150 feet from exterior public road right-of-way 50 feet from Interior subdivision road right-of-way
Minimum Rear Setback	50 feet
Minimum Side Setback	50 feet
Maximum Lot Coverage	10% per individual lot

H. Uses Permitted on Conservation Open Space

The following uses are permitted in conservation open space areas:

- 20. Open land in its natural state (woodlands, fields, or managed meadows)
- 21. Neighborhood open space uses such as village greens, picnic areas, community gardens, trails, and similar low-impact passive recreational uses. Off-road motorized vehicle trails, rifle ranges and other uses similar in character are specifically prohibited from open space uses.
- 22. Active non-commercial recreational uses such as playing fields, playgrounds, courts, and bikeways. These types of uses shall not consume more than half of the minimum required open space area or five acres, whichever is less.
- 23. Water supply and sewage disposal systems and storm water detention areas, designed, landscaped and available for use as an integral part of the open space. However, water treatment plants and storage tanks, central sewage treatment plants and lagoons and a fifty-foot (50') buffer around such facilities shall not be included within the minimum open space requirement.
- 24. Easements for drainage, access, water lines, or other public purposes.

25. Utility rights-of-way. Street rights-of-way may traverse the open space area but shall not count toward the minimum required open space area.

ARTICLE 5
Supplementary Regulations

Section 5.1 – Requirements for All Uses

A. Application of District Regulations.

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

B. Buffers and Setbacks Across Municipal Boundaries.

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

C. Annexed Territory.

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

Section 5.2 – Deviations from Dimensional Requirements

A. Lot Size Reduction.

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

B. Permitted Encroachments in Required Yard Areas.

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

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

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

C. Maximum Height Exceptions.

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

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

Section 5.3 – Stormwater Management

Refer to Township Ordinance #96 “Storm Water Management Regulations,” as amended, Ordinance #152 “Stormwater Management System,” as amended, and Ordinance #142 “MS4 Operation and Maintenance Ordinance” as amended, in addition to any and all applicable ordinances as updated by the Township, including but not limited to Subdivision and Land Development.

Section 5.4 – Grading and Erosion Control

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

Section 5.5 – Slope Control

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

Section 5.6 – Buffer Areas and Screening

A. Applicability.

1. Nonresidential Uses Abutting Residential Uses or Districts.
 - (a) When a nonresidential use is established which abuts a Residential District or a residential use, a landscaped buffer shall be established on the site of the nonresidential use immediately adjacent to and parallel to the residential use.

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

B. Buffer Area Classes.

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

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

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

- (b) Evergreen trees shall be at least six (6) feet tall.
 - (c) Shrubs shall be at least two (2) feet in height.
 - 2. Trees, shrubs, and groundcovers shall be planted in accordance with accepted conservation practices.

- D. Existing Trees in Buffer Areas.
 - 1. Where trees of a minimum of two (2) inches in trunk diameter measured six (6) inches about the root collar already exist within a required buffer area, such trees shall remain undisturbed, except that diseased or dead material may be removed.
 - 2. Healthy existing trees retained within a buffer area may be credited toward buffer area requirements when such trees are shown on approved plans and are adequately protected during construction.

- E. Maintenance and Protection of Buffer Areas.
 - 1. All required landscape buffer areas, including plantings and fences, shall be protected from encroachment by motor vehicles by installation of curbs, wheel stops, or other features separating the buffer area from the areas improved for vehicle parking or circulation.
 - 2. It shall be the continuing responsibility of the landowner or lessee to assure the continued growth of all required landscaping and/or to replace diseased or dead landscaping. Fences must also be continually maintained and replaced when damaged. Failure to replace required landscaping or fencing shall be a violation of this Ordinance and shall be subject to the enforcement provisions in Article 11 and in any other applicable ordinance.

Section 5.7 – Landscaping and Tree Preservation

- A. Landscaping Requirements.
 - 1. General Requirements.
 - (a) Required buffer areas shall be reserved solely for open space and landscaping. No proposed building addition, structure, parking area, or any other type of physical land improvement shall be located in a required buffer; provided, that driveways or roads may cross required buffers if necessary to provide access to the building site. Sidewalks, bikeways, and pedestrian paths may also be located within required buffers.
 - (b) Selected trees and shrubs shall not include invasive plants as determined by the Pennsylvania Department of Conservation and Natural Resources (DCNR).
 - (c) All landscaping, trees, and planting materials adjacent to parking areas, loading areas, or driveways shall be properly protected by barriers, curbs, or other

means from damage by vehicles. In addition, the tree or shrub shall be planted a minimum of three (3) feet from any curb.

- (d) Plant materials with seasonal diversity should be selected and distributed throughout the site where possible.
- (e) No tree, shrub, fence, wall or similar item shall be installed in the sight triangle of any corner, street intersection, or accessway intersecting a public right-of-way that would cause an obstruction to visibility.

2. Landscaping Plan Requirements.

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

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

3. Planting Standards.

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

- (a) All deciduous shade trees shall reach a height of at maturity of at least 30 feet with a spread of at least 30 feet and shall have a trunk diameter of at least two (2) inches at planting when measured six (6) inches above the ground. Deciduous shade trees are to be planted such that the majority of the canopy is located on the lot of the planting.
- (b) All evergreen trees shall reach a minimum height of 20 feet at maturity and shall be a minimum of six (6) feet tall at planting.

4. All understory trees shall reach a minimum height of 10 feet at maturity and shall have a trunk diameter of 1.5 inches at planting. See the Township's official plant list for a listing of permitted understory trees.

5. All deciduous or evergreen shrubs used for screening purposes shall reach a minimum height of five (5) feet at maturity and shall be at least three (3) feet tall at planting.

6. All deciduous or evergreen shrubs used for general or parking lot landscaping must be a minimum of two (2) gallons at planting.

7. Where plantings would result in an inappropriate or impractical design due to underground utilities, overhead wires, or other factors, the following substitutions may be made:
 - (a) Two (2) understory trees meeting the requirements of Subsection 4 above may be substituted for one (1) deciduous shade tree.
 - (b) Two (2) evergreen trees may be substituted for one (1) deciduous shade tree.
 - (c) One (1) deciduous shade tree may be substituted for five (5) shrubs.
8. Maintenance Requirements.
 - (a) The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials and screening fences or walls to maintain conformance with landscaping requirements.
 - (b) Any plant material that is 50% dead or more shall be considered dead and must be replaced.
 - (c) Replacements shall be of the same size and type of plant as shown on the landscaping plan.
 - (d) All landscaped areas shall be kept free of litter and trash.

B. Preservation of Existing Vegetation.

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

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

Trunk diameter (caliper): 4 inches;

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

Critical root zone radius: 4 inches × 18 inches = 72 inches (6 feet);

Critical root zone (in square feet): 6 feet squared × π (pi) = 113 square feet;

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

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

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

Section 5.8 – Fences and Walls

- A. Fences, gates and walls may be erected up to lot lines; however, no fence, gate or wall may be erected within any road right-of way. For a fence, gate or wall to be erected on a lot line or within two feet (2') of a lot line, written consent from the adjoining property owner(s) is required.
- B. Solid fences, gates and walls in side- and rear-yard areas, measured from ground level along the full length of the fence, shall not exceed six feet (6') in height except as otherwise required for Specific Uses set forth in this section. Solid fences, gates and walls erected in front yards, measured from ground level along the full length of the fence, shall not exceed four feet (4') in height except as otherwise required for Specific Uses set forth in this Article 7. The front yard of a property shall be the area between the front property line and the actual setback of the principal structure nearest to the front property line, not the minimum required front-yard setback as designated in Section 3.4 of this Ordinance.
- C. Open or ornamental fences and gates, measured from ground level along the full length of the fence, shall not exceed eight feet (8') in height. The open area between vertical members of the fence or gate shall either be four inches (4") or less, or twelve inches (12") or greater.
- D. Fences and gates not exceeding a height of ten feet (10'), measured from ground level along the full length of the fence, that are open mesh and screened as customarily required for tennis courts and other similar courts are permitted and may be equipped with the customary attached windbreaks.
- E. No fence, gate or wall more than two feet (2') above the centerline grades of intersecting streets may be erected on any corner lot for a distance of thirty feet (30') measured along the street right-of-way lines from their point of junction.
- F. All fence posts or gateposts and other structural supports shall be located on the interior side of the fence or gate, facing the property to be fenced. The finished side of the fence or gate shall face the adjoining property and/or right-of-way.
- G. No fence, gate or wall shall be constructed within an easement in such a way that it would prevent the use of the easement for its intended purpose. The issuance of a permit should not impose any duty on the Township to preserve an easement of which the Township may not be aware. This duty shall be imposed on the property owner.
- H. Walls that are attached to a building shall be regulated as, and considered, part of the building.

- I. All fences, gates and walls must be maintained in good condition. No advertising shall be permitted on any fence, gate or wall in residential districts nor shall advertising be permitted on any fence, gate or wall erected on residential property in commercial districts.
- J. Fences, gates, walls, and the area between their exterior side and the nearest property line or roadway curb line or shoulder edge shall be properly maintained at all times. Broken, cracked, rotted, or rusted structural components shall be removed or repaired promptly. Grounds shall be kept clear or planted with vegetation appropriate to the site. A property owner who fails to provide proper maintenance may, after notice by the Zoning Officer and an opportunity to correct the situation, be required to remove the fence, gate or wall.
 - 1. In all Zoning districts, the following fences, gates or walls are strictly prohibited:
 - 2. Barbwire fences and gates or fence and gates using razor wire or any other material likely to cause physical injury to persons or animals. Fences and gates used for an agricultural operation or public facilities/utilities are exempt from this prohibition. Fences, gates or walls erected in such a manner as to inhibit or divert the natural drainage flow or cause the blockage or damming of surface waters.
 - 3. Fences, gates or walls that may create or enhance a fire hazard or other dangerous condition, or that may result in the obstruction to effectively fight a fire.
 - 4. Chain-link fences and gates having an unfinished or jagged top edge, or chain-link fence and gates that have the open spaces between wires covered by fabric sheeting or by strips of plastic or other material woven through the spaces.
 - 5. Temporary fences, such as snow fences or expandable and collapsible fences, unless necessary for use on sites under construction or for snow control; canvas or cloth fences, except when necessary for the protection of shrubs and vegetation.
- K. A Building/Zoning permit shall be required for the erection of all fences, gates and walls. The Zoning Officer shall have the duty and all power necessary to issue appropriate notices or orders directing property owners to correct any conditions that are in violation of this Ordinance.
- L. In the case of any fence, gate or wall erected before the effective date of this Ordinance, the requirements of this section shall apply upon the replacement of said fence or wall or any section(s) or components thereof comprising at least twenty-five percent (25%). Repairs, as this term is used in this Ordinance, shall not be interpreted to include painting.
- M. Engineered retaining walls, as defined by this Ordinance and necessary to hold back slopes, are exempt from the regulations of this section.

Section 5.9 – Regulation of Nuisance Elements

- A. Noise Control.

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

Sound Level Limits and Permitted Hours by Receiving Land Use Group		
Land Use Group(s) Receiving Noise	Hours and Days	Maximum Permitted Sound Level (dBA)
<ul style="list-style-type: none"> - Residential - Care-Related - Institutional - Conservation 	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	62
	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	52
<ul style="list-style-type: none"> - Commercial 	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	67
	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	62
<ul style="list-style-type: none"> - Industrial - Infrastructure 	All times and days	70

2. The maximum permissible sound level limits set forth in Subsection A shall not apply to any of the following noise sources:
 - (a) Uses falling under the Agricultural land use group;
 - (b) The emission of sound for the purpose of alerting persons to the existence of an emergency;
 - (c) Emergency work to provide electricity, water, or other public utilities when public health or safety are involved;
 - (d) Domestic power tools, between the hours of 7:00 a.m. and 10:00 p.m.;
 - (e) Construction, including necessary blasting and explosives between the hours of 7:00 a.m. and 10:00 p.m., and street and utility repair operations;
 - (f) Motor vehicles traveling on public streets, except as otherwise specified by law;
 - (g) Public celebrations specifically authorized by Waverly Township;
 - (h) Railroads and airplanes; and
 - (i) The unamplified human voice.

3. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one (1) time in any 15-second interval), the sound level shall not exceed 20 dBA over the ambient sound level, regardless of time of day or night or receiving land use group.
4. Noise associated from Construction or similar activities shall be subject to Township of Waverly Ordinance No. 99 *Contractor Construction Noise Ordinance*.

B. Vibration Control.

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

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

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

Section 5.10 – Lighting and Glare

A. General Provisions.

1. All uses shall direct, deflect, and shield lights and control the intensity of lights and illuminated signs to avoid nuisances and to prevent glare onto other properties and streets. Lights shall not shine directly into the normal line of sight of motorists.
2. Low-voltage and light-emitting diode (LED) lighting systems are encouraged.
3. All outdoor lighting shall be designed, installed, located, and maintained so that nuisance glare onto adjacent lots or streets shall be minimized and all direct illumination kept within the boundaries of the lot.

4. Lights on motion sensors shall not be triggered by movement or activity that occurs off-property from where the light is located.
5. Lighting associated with any canopy structure shall be installed as internal illumination of the canopy only.

B. Lighting Zones.

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

Lighting Zone 1	
Zoning Districts: RUR, R-1, R-2, R-3, R-4	
Provision	Measurement
Maximum illumination at lot lines	0.10 horizontal and vertical foot-candles, when measured three feet above ground
Maximum on-site illumination value	3 foot-candles, when measured three feet above ground
Maximum average on-site illumination	1 foot-candle, when measured three feet above ground
Maximum proportion of illumination at a 90-degree angle or greater from nadir	5% of the lighting fixture's lumens

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

Section 5.11 – Outdoor Storage

A. Outdoor Storage of Materials.

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

B. Outdoor Storage of Garbage.

1. All organic refuse or garbage stored outdoors shall be placed in watertight, vermin-proof containers, with the lid kept in place at all times.
2. All trash dumpsters, compactors, and other refuse storage containers, other than those for single-family or two-family dwellings and other curbside collection, must be completely screened from view on all sides. Solid waste collection and storage areas shall be screened on all sides. Such screening shall consist of decorative masonry walls, solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slats. The fence or wall shall include a self-latching door or gate.
3. The screening to be installed must be sight-obscuring and shall be installed to at least the height of the dumpster, compactor, or refuse storage container. The permitted screening materials are as follows: solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slat, decorative masonry walls, or evergreen plantings in combination with deciduous shrubs. Plants installed for screening are required to be the height of the dumpster, compactor, or refuse storage container at the time of planting. Dumpsters, compactors, and refuse storage containers other than those for single-family or two-family dwellings and other curbside collection shall not be permitted in the front yard of any property and shall not be located closer than 25 feet to any front yard property line.
4. The locations of all dumpsters, other than those for single-family or two-family dwellings and other curbside collection, shall be shown on all site plans and land development plans.

C. Outdoor Storage of Trailer, Mobile Homes, and Recreational Vehicles.

1. The parking and storage of trailers, mobile homes, motor homes, campers, and recreational vehicles shall be prohibited within the right-of-way of any public street.
2. At no time shall such parked or stored vehicle be occupied or used as a dwelling.
3. Trailers, mobile homes, motor homes, motor homes, campers, and recreational vehicles shall be parked entirely behind the front face of the principal building, unless completely screened from view by a sight-obscuring evergreen planting, fence, wall, or gate.

Section 5.12 – Sewage Disposal

- A. A sewage permit shall be a prerequisite to the issuance of a zoning permit.
- B. Mobile Homes.
 - 1. Mobile home parks, where such use is permitted, shall be served by a public sewer system.
 - 2. Individual mobile homes not located in a mobile home park and not located in an area with an available public sewer system may be served by an on-lot sewage disposal system, provided such system meets the regulations of the Pennsylvania Department of Environmental Protection (DEP) found in Title 25, Chapter 73 of the Pennsylvania Code.
- C. On-Lot Sewage Disposal.

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

Section 5.13 – Accessory Structures

- A. Accessory uses, buildings, and structures are permitted only in conjunction with an established principal use and must be located on the same lot as said principal use.
- B. No structure accessory to a nonresidential use, other than signs and lighting fixtures, shall be located in the front yard setback.
- C. Setbacks for accessory structures shall comply with the requirements specified in each zoning district, unless otherwise regulated in this Ordinance.
- D. No object exceeding a height of three (3) feet, unless otherwise permitted by this Ordinance, shall be temporarily or permanently placed, erected, installed, or parked within the clear sight triangle required at the intersection of streets or the intersection of a driveway or private lane with a public street.
- E. Specific types of accessory structures named in this Ordinance shall be regulated by applicable sections in this Ordinance governing such accessory structures. It is the responsibility of the landowner to abide by any provisions for such structures as may be found in this Ordinance or any other ordinances of the Township.
 - 1. Garages and Carports, private
 - (a) Private garages and carports as defined by this Ordinance shall comply with the applicable requirements of §5.13.
 - (b) The exterior architectural appearance of private garages and carports shall be compatible to that of the principal residential structure.

- (c) A maximum of four (4) bays shall be allowed for detached private garages or carports or any combination thereof. On lots greater the one (1) acre, newly proposed detached private garages or carports or any combination thereof may contain more than four (4) bays; however, any new private garage or carport or combination thereof proposing more than four (4) bays shall be considered a special exception use and require approval by the Zoning Hearing Board prior to construction.
- (d) Private garages or carports attached, pr proposed to be attached, to a principal dwelling shall be considered a part of the principal dwelling and shall not be subject to any bay limitations as set forth in § 5.13.

Section 5.14 – Keeping of Household Animals Other than Pets

B. General Provisions.

1. The keeping of household animals for private, noncommercial use and enjoyment shall only be permitted in the Rural Resource and Rural Single Family Residential districts wherever it is demonstrated that the dimensional and density provisions in this Section can be met.
2. No animals shall be allowed to stray so as to create any health or safety hazards. Animals shall be maintained as to be free from objectionable behavior. Noise shall not exceed the maximum permitted levels found in Section 5.9, Subsection A.
3. All animal structures and roaming areas shall be maintained as to comply with the odor standards found in Section 5.9, Subsection C. Likewise, all manure shall be managed so as to prevent any odor from affecting other properties, contaminating any stream, or otherwise having an adverse impact on the human and natural environment.
4. All pasture, grazing, and exercise areas shall be fenced with materials of sufficient height, strength, and density to adequately confine the animal in question. All such fencing must be in compliance with Section 5.8.
5. All animals shall be properly immunized.
6. Every owner engaged in the keeping of animals shall provide facilities maintained with best management practices so as to be clean and well-maintained and to avoid attracting vermin.
7. The disposal of dead animals shall be in accordance with the Domestic Animal Law, Title 3, Chapter 23, Section 2352 of the Pennsylvania Code. Dead animals shall be disposed of within 48 hours after death.
8. Permitting Process.

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

- (a) A zoning permit application fee payable to the Township in the amount of \$25.00 (this amount may be amended by resolution adopted by the Waverly Township Board of Supervisors);
 - (b) Property address, name, and contact information of the applicant;
 - (c) Description of the proposed animals and activities on the property;
 - (d) Location, area, and height of the proposed shelter/enclosures;
 - (e) Distance between the proposed shelters/enclosures and neighboring lots; and
 - (f) Verification that the applicant is familiar with the requirements set forth in this Section.
- C. Chickens, Ducks, and Rabbits.
- 1. Up to six (6) chickens, ducks, or rabbits can be raised or kept on lots measuring 20,000 square feet or greater in size. For every additional 1,000 square feet of lot size, the household is permitted one (1) additional chicken, duck, or rabbit.
 - 2. A sheltered area of a size sufficient for good sanitation practices and adequate and sanitary drainage shall be in accordance with the following minimum requirements:
 - (a) All shelters shall have a roof and at least three (3) enclosed sides.
 - (b) Shelters must be located not less than 20 feet from the lot line of the property. No such structures may be erected or maintained in a front yard or a side yard abutting a street.
 - (c) Shelters shall provide a minimum of eight (8) square feet per animal.
 - 3. The keeping of roosters shall be prohibited.
- D. Miniature Goats.
- 1. Up to two (2) dehorned, adult female or neutered male goats can be raised or kept on lots measuring 20,000 square feet or greater in size. For every additional 5,000 square feet of lot size, the resident is permitted one (1) additional dehorned, adult female or neutered male goat.
 - 2. A sheltered area of a size sufficient for good sanitation practices and adequate and sanitary drainage shall be in accordance with the following minimum requirements:
 - (a) All shelters shall have a roof and at least three (3) enclosed sides.
 - (b) Shelters must be located not less than 30 feet from the lot line of the property. No such structures may be erected or maintained in a front yard or a side yard abutting a street.
 - (c) Shelters shall provide a minimum of 20 square feet per animal.

E. European Honeybees.

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

F. Other Animals.

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

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

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

Section 5.15 – Outdoor Seating Areas

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

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

Section 5.16 – Reserved

Section 5.17 – Solar Energy Systems

- A. Intent.

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

1. Provide property owners and businessowners/operators with flexibility in satisfying their energy needs;
 2. Reduce overall energy demands within the community and to promote energy efficiency; and
 3. Integrate alternative energy systems seamlessly into the community's neighborhoods and landscapes without diminishing the quality of life of the community.
- B. Applicability.
1. This Section applies to building-mounted and ground-mounted solar energy systems installed and constructed after the effective date of this Ordinance.
 2. Solar energy systems constructed prior to the effective date of this Ordinance are not required to meet the requirements of this Section.
 3. Any upgrade, modification, or structural change that materially alters the size and placement of an existing solar energy system shall comply with the provisions of this Section.
 4. Building-integrated solar energy systems, as defined in this Ordinance, are not considered an accessory use and are not subject to the requirements of this Section.
 5. This Section does not apply to principal solar energy systems (PSES), as defined in this Ordinance.
- C. Location on a Property.
1. Building-mounted solar energy systems are permitted to face any front, rear, or side yard as defined in this Ordinance. Such systems may only be mounted on lawfully permitted principal and accessory buildings.
 2. Ground-mounted solar energy systems are permitted based on the requirements for accessory uses and structures in the property's zoning district.
- D. Design and Installation Standards.
1. Solar energy systems must be constructed to comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as administered by the Pennsylvania Department of Labor and Industry (DLI).
 2. All wiring must comply with the edition of the National Electrical Code (NEC) adopted by the Commonwealth of Pennsylvania. For ground-mounted solar energy systems, all exterior electrical lines must be buried beneath the surface of the ground where possible or otherwise placed in a conduit.
- E. Dimensional Requirements.
1. Setback Requirements for Ground-Mounted Solar Energy Systems.

Ground-mounted solar energy systems are subject to the accessory use setback requirements in the zoning district in which the system is to be constructed. The required setbacks are measured from the lot line to the nearest part of the system. No part of a ground-mounted solar energy system shall extend into the required setbacks, including in the case of tracking systems or other adjustments of related equipment or parts.

2. Height Requirements.

Notwithstanding the height limitations of the underlying zoning district:

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

F. Screening and Visibility.

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

G. Impervious Lot Coverage Restrictions.

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

H. Nonconformance.

1. Building-Mounted Solar Energy Systems.

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

2. Ground-Mounted Solar Energy Systems.

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

I. Signage and/or Graphical Content.

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

J. Performance Requirements.

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

K. Permit Requirements.

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

L. Inspection, Safety, and Removal.

- 1. Waverly Township reserves the right to inspect a solar energy system for fire or building code compliance and safety.
- 2. If upon inspection, the Township determines that a fire or building code violation exists or that the system poses a safety hazard to persons or property, the Township may order the property owner to repair or remove the system within a reasonable timeframe. Such an order shall be in writing, shall offer the option to repair or otherwise

correct the issue, shall specify the code violation or safety hazard found, and shall notify the owner of his or her right to appeal such determination.

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

Section 5.18 – Swimming Pools

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

Section 5.19 – Temporary Uses, Buildings, and Structures

- A. Temporary Construction Buildings or Trailers.

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

- B. Temporary Real Estate Sales Offices.

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

lease of the last property in the development.

C. Tents and Membrane Structures.

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

D. Food Trucks and Food Carts.

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

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

E. Other Temporary Uses.

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

1. Duration.

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

2. Fee.

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

3. Special Events.

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

Section 5.20 – Wind Energy Systems

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

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

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

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

box, and the grounding wires, shall be contained within an appropriate conduit suitable for the same.

- O. A wind energy system is considered abandoned if it is inoperable or unsafe or unattended for a period of 12 months. Non-function or lack of operation may be proven by reports from the interconnected incumbent utility provider. Wind energy systems must be immediately removed at the expense of the property owner if deemed abandoned.
- P. Wind energy systems cannot be used to support signage, satellite dishes, or antennas.

Section 5.21 – Wireless Communication Facilities

A. Purposes.

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

B. Zoning District Regulations.

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

C. Area and Bulk Requirements.

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

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

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

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

D. Permit Application Requirements.

1. Collocation Analysis.

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

2. Gap in Coverage or Lack of Adequate Capacity.

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

3. Authorization.

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

4. Licensing and Applicable Regulations.

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

5. Emissions.

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

6. Insurance.

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

7. Application Fees.

(a) The Township may assess appropriate and reasonable permit application fees directly related to the actual costs in reviewing and processing the application for approval of a WCF. The amount of this fee may not be in excess of the actual reasonable cost to review and process the application.

(b) The Township may assess to the applicant, in addition to application fees, appropriate and reasonable review fees directly related to the costs incurred by the Township, including but not limited to professional/consultant fees to review the WCF application.

(c) For special exception applications, the Township's regular special exception application fees shall apply.

8. Review Timeframes.

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

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

	Township shall notify the applicant in writing of any information that may be required to complete application:	Township shall approve or deny the application, unless a shorter time period is applicable under the PA MPC:
Existing Structures	date the application was filed with the Township.	complete application for a WCF.
Eligible Facilities Requests** (as defined)	Within 30 calendar days of the date the application was filed with the Township.	Within 60 days* of submission of a complete application for a WCF.

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

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

E. Design, Construction, and Operations.

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

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

5. Signage.
 - (a) All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and FCC registration number (if applicable). Such signage shall not include

commercial advertising, shall not protrude from the tower or WCF, and is subject to approval by the Township.

- (b) For tower-based WCFs outside of the right-of-way, the posted sign shall not exceed two (2) square feet in area.
- (c) For all other WCFs, the sign shall be limited to the maximum necessary size to provide the required information in a readable manner.

6. Lighting.

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

7. Noise.

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

8. Vehicular Access.

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

appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

9. Fencing.

A security fence, which may include barbed wire, with a minimum height of eight (8) feet may be required to surround any tower-based WCF located outside the right-of-way, where the wireless communication tower is more than 40 feet in height, including guy wires, associated equipment, and buildings. All or any of the requirements herein for a security fence may be waived by the Zoning Hearing Board when the fence would not be appropriate or feasible.

10. Safety in Rights-of-Way.

(a) Schedule of Operations.

The Township shall determine the time, place, and manner of siting, design, construction, maintenance, repair, modification, removal, and/or replacement of all WCFs located in the right-of-way, based on public safety, traffic management, physical burden on the right-of-way, and related considerations. For public utilities, the time, place, and manner requirements shall be consistent with the requirements of the Pennsylvania Public Utility Code or other applicable ordinances or laws.

(b) Alteration of a WCF.

Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF located in the right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable PUC regulations, shall have determined that such removal, relocation, change, or alteration is reasonably necessary under any one of the following circumstances:

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

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

(c) Visual Obstruction.

All WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, to create safety

hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the right-of-way as determined by the Township. In no case shall ground-mounted equipment, walls, screening, or landscaping be located within 18 inches of the face of the curb or, in an area in which there are no curbs, within (3) feet of the edge of cartway.

11. Maintenance.

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

12. Soil Report.

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

13. Aviation Safety.

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

14. Inspections.

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

15. Equipment Storage.

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

16. Historic Sites.

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

F. Visibility, Landscaping, and Screening.

1. Stealth Technology.

(a) All WCFs shall employ the most current stealth technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings

and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.

- (b) In the case of a tower-based WCF, compliance with this Subsection may be evidenced by the following:
 - (1) The tower shall have a galvanized finish or be painted silver above the top of surrounding trees and green below treetop level.
 - (2) The tower shall comply with FAA and PennDOT Bureau of Aviation lighting standards and shall not be artificially lighted unless required by those agencies.

2. Landscaping and Screening.

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

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

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

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

H. Discontinuation, Abandonment, and Removal.

In the event that use of a WCF is planned to be discontinued, the owner/operator shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

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

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

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

J. Special Exception Criteria and Procedures.

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

1. The applicant shall provide to the Township, prior to issuance of a zoning permit for construction, financial security to guarantee the removal of any tower-based WCF. Such financial security shall be in an amount determined by the Township Engineer based upon industry standards for removal and shall be acceptable in form and content to the Township Engineer.
2. No tower-based WCF shall be located or within 100 feet of an area in which all utilities are located underground.
3. The applicant shall provide a propagation study evidencing the need for the proposed WCF, a description of the type and manufacturer of the proposed transmission and receiving equipment, the frequency range assigned to the WCF applicant, the power in watts at which the WCF will transmit, and the results of any relevant tests conducted by the applicant to determine the need for the proposed WCF.
4. The applicant shall supply documentation demonstrating that the proposed WCF complies with all state and federal requirements regarding aviation safety.
5. Where the WCF is located on a property with another principal use, the applicant shall present documentation that the property owner has granted an appropriate lease or easement for the WCF and for access to the WCF.

6. The special exception procedures and criteria in sections 6.3 and 10.4 shall apply and be satisfied by the applicant. In addition, the applicant shall, at his or her expense, mail written notice of the scheduled public hearing for the WCF to all owners of record of property located within 500 feet of the proposed WCF. Such notice shall be mailed at least 14 days prior to the scheduled public hearing, and the applicant shall provide a copy of such notice and proof of such mailing to the Township prior to the hearing.

ARTICLE 6
Specific Criteria, Conditional Uses, and Special Exceptions

Section 6.1 – Process for Uses Permitted by Right

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

Section 6.2 – Process for Conditional Uses

A. Applicability.

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

B. Procedure.

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

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

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

C. Duration of Conditional Use Permit.

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

Section 6.3 – Process for Uses by Special Exception

B. Applicability.

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

C. Procedure.

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

D. Conditions for Approval.

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

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

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

A. Assisted-care Accessory Apartment Unit

1. One (1) temporary accessory apartment shall be allowed on any conforming lot containing a single-family detached dwelling without an increase in density per dwelling requirements. The apartment may be either in or attached to the principal structure or in a detached accessory structure. Detached assisted-care units shall be limited to tiny homes as defined by this Ordinance. Assisted-care accessory apartments shall not be allowed in conjunction with two-unit attached dwellings, duplexes, multi-family dwellings, mobile homes in a mobile home park, or bed and breakfast inns.
2. The occupancy of the assisted-care accessory apartment unit shall be limited to the infirmed, aged, or ill relative of the permanent resident of the principal dwelling on the property.
3. Under no circumstance shall the use have a maximum gross floor area greater than 400 square feet. Any dwelling unit over 400 square feet shall be considered a principal dwelling or structure and shall be subject to all density and setback requirements for principal dwellings and structures.
4. All applicable setback requirements for principal dwellings shall be met for assisted-care apartment units.

5. Sewage flows from an assisted-care apartment unit shall not exceed 400 gallons per day. All applicable permits and approvals for connection to the public sewer system or for an on-lot sewage disposal system or modification or installation of any additional on-lot sewage disposal systems shall be required. PA DEP provides through TAB 51 for the development of assisted-care apartment units to address sickness or other hardship without the requirement of processing sewage Planning Modules.
6. Assisted-care apartment units shall not require approval as a "Land Development" under the Township's Subdivision and Land Development Ordinance.
7. A legally binding agreement for execution between the property owner and the Township to provide for the elimination of the unit when the unit is no longer occupied by the relative requiring care shall be submitted with the zoning application.
8. The assisted-care apartment unit shall be designed and installed in such a way that it can be easily converted into part of the principal structure, or in the case of a tiny home, can be easily removed from the property.

B. Bakery

1. The maximum lot size shall be one (1) acre.

C. Reserved

D. Bar or tavern

1. The maximum lot size shall be one (1) acre.
2. There shall be no selling of liquor on site.
3. Off street parking must conform to the parking requirements as set forth in this Ordinance.
4. There shall be no parking on the frontage of the lot.
5. Hours of operation are limited to 8 a.m. to 2 a.m.
6. Outdoor hours of operation are limited to 8 a.m. to 10 p.m. on weekdays and 8 a.m. to 2 a.m. on weekends.

E. Bed-and-breakfast

A minimum of four (4) rooms shall be offered as part of this use.

F. Brew Pub

See Bar or tavern

G. Business Service Establishment

1. There shall be public sewer access.
2. Off street parking shall meet the parking requirements as set forth in this Ordinance.
3. All dumpsters shall be screened from the public view by at least a six (6) ft screening.

H. Convenience Store

1. All lighting subject to the illumination standards of the Township Code.
2. Hours of operation are limited to 5 a.m. to 12 a.m.
3. All dumpsters shall be screened from the public view by at least a six (6) ft screening.
4. No gasoline/fuel and/or energy recharge units are permitted.

I. Dwelling: Conversion Residential

1. All parking spaces provided on the lot shall be paved in asphalt, concrete or decorative paving block and shall meet the parking requirements provided in the Ordinance.
2. Each dwelling unit shall have a minimum floor area of 600 square feet of habitable floor area, with all areas used to meet such required floor area complying with the following conditions:
 - a. All such floor area shall have a floor-to-ceiling height clearance of at least 6 feet 8 Inches that not unobstructed by pipes, ducts, joists or other Intrusions,
 - b. All such floor area shall be heated and completely enclosed,
 - c. A minimum of 50% of the floor surface of such required floor area shall be located above the average surrounding ground level.
3. Each dwelling unit shall have at least 1 window that opens to the outside.
4. The use shall comply with the Pennsylvania Sewage Facilities Act, as amended and State and local fire safety regulations.
5. A total maximum over the lifetime of the property of no more than 2 dwelling units may be added to any existing single family detached dwelling, single family semi-detached dwelling, two family detached dwelling or townhouse beyond the number of dwelling units that existed in such building at the time of adoption of this Ordinance.
6. The following regulations shall apply to the conversion of an existing single-family detached dwelling into a greater number of dwelling units:
 - a. The building shall maintain the appearance of a single-family detached dwelling with a single front entrance. Additional entrances may be placed on the side or rear of the structure. The dwelling units may internally share the single front entrance.
 - b. The conversion shall not be permitted if it would require the placement of an exterior stairway on the front of the building or would require the placement of more than 3 off-street parking spaces in the required front yard abutting an arterial street.
7. Separate cooking and sanitary facilities shall be provided for each dwelling unit.
8. Off-street parking lots with 4 or more spaces shall be buffered from abutting dwellings by evergreen screening meeting the requirements of this Ordinance.

J. Craftsman-artisan workshop

1. Hours of operation shall be limited to 8 a.m. to 10 p.m.
2. Retail is limited to products made on site.

K. Home-Based Business, Other

1. The following uses shall not be permitted as a minimal impact home-based business: adult business, veterinarian office, commercial stable, kennel, funeral home, retail business, restaurant, auto repair or auto body shop, or trucking company terminal.
2. The Zoning Hearing Board may determine that other particular types or intensity of uses are unsuitable to be minimal impact home-based businesses or that the proposed lot area or setbacks are insufficient.
3. The minimal impact home-based business shall be conducted completely indoors and may be within a principal dwelling or accessory structure. The total amount of floor area used for the minimal impact home-based business shall not be greater than twenty-five percent (25%) of the total floor area of the principal dwelling unit.
4. Outdoor storage of materials, products, or equipment shall be prohibited.
5. Display windows, business displays, or advertising visible from outside shall be prohibited. A personal sign identifying the minimal impact home-based business is permitted pursuant to the requirements of Article VIII of this Ordinance.
 - a. The use shall comply with the requirements of Commercial Vehicle Parking in R-districts and on Residential Property set forth in Section 7.3 of this Ordinance.
 - i. No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. No use shall generate noise or glare in excess of what is typical in a residential neighborhood, as set forth under Section 5.10 of this Ordinance.
 - ii. The use shall comply with all standards relating to Regulation of Nuisance Elements set forth in Section 5.9 of this Ordinance.
6. The use shall not involve the parking of more than four (4) nonresident vehicles at any one time. The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use will have adequate area for off-street parking and loading spaces.
7. The Zoning Hearing Board may regulate the location and design of needed off-street parking to maintain the residential character, and may deny a minimal impact home-based business if adequate off-street parking cannot be accommodated or effectively screened from adjacent properties.
8. The exterior of the dwelling and lot shall not be changed in such a way to decrease its residential appearance, except for permitted parking spaces and a personal sign identifying the business.

9. A minimal impact home-based business shall not be conducted in a way that is perceptible from beyond the property boundaries between the hours of 8 PM and 8 AM. This time limit shall also apply to any loading or unloading of vehicles that causes noise to abutting properties.
10. The use shall not involve the storage or use of hazardous, flammable, or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the storage or use of toxic substances.
11. In addition to permanent residents, in all zone districts except the R-4 district, three (3) nonresidents of the dwelling may work on the premises of a minimal impact home-based business. In the R-4 zone district, a maximum of two (2) nonresidents of the dwelling may work on the premises of a minimal impact home-based business.
12. Child Day Care Centers operated as minimal impact home-based businesses shall also comply with the following:

The number of children that care is provided to shall be from four (4) to six (6) as defined in Section 2.2 of this Ordinance.

Smoke detectors shall be provided throughout the building, an "ABC"-rated , five (5)-pound fire extinguisher shall be provided, lights shall be provided at all exits, and at least one (1) exit window shall be provided with an opening within six feet (6') of the exterior grade level.

A minimum of one hundred (100) square feet of a safe, fenced-in exterior play area shall be provided. The play area shall not be within any front yard and shall be separated from any abutting residential property by evergreen screening.

L. Farm Cafés

1. As a principal land use, the following conditions shall apply:
 - a. Circulation and lot access shall be designed to minimize conflict with typical traffic conditions of adjacent right-of-way.
2. As an accessory land use the following conditions shall apply:
 - a. A minimum area equivalent to three parking spaces shall be available for the use of parking on the lot.
3. The total gross floor area specific to the farm café use shall not exceed 2,500 square feet. This provision shall apply to the entirety of the farm café in the case of a freestanding structure or, in the case of an attached structure, the portion of the structure that shall be used for the farm café.
4. The minimum lot size shall be the same as the minimum lot size for the principal use of the property with the exception of nonconforming lots. In the case of nonconforming lots, the minimum lot size shall be the size of the lot, provided the other requirements of this section can be met.
5. No structure within the facility shall exceed 40 feet in height.

6. To reduce traffic impacts, only on-site and take-out is permitted. No drive-through service is permitted.
7. Outdoor lighting shall be permitted in accordance with this Ordinance.
 - a. No event lighting or loudspeaker system is permitted to be installed or used on the site.
8. Front, side, and rear setbacks shall be a minimum of 50 feet.
9. Signage shall be permitted in accordance with this Ordinance.
10. Adequate parking to accommodate the use shall be provided on-site according to the parking standards for eating and drinking establishments. A parking study submitted for review by the Township may suffice as justification for a number of parking spaces smaller than Township Ordinance requirements.
 - a. Gravel parking lots with bumper blocks shall be allowed until such time as the required parking exceeds 25 parking spaces. At such time, all parking spaces shall be paved.
 - b. Handicapped parking spaces shall comply with ADA standards.
11. Retail sales shall be limited to agricultural products produced in whole or in part within Region 5 as defined by the Pennsylvania Department of Agriculture including, but not limited to, canned or jarred fruits and vegetables and frozen meats. Retail sales shall only be permitted under this section in conjunction with an eating establishment that is provided in accordance with the definition of farm café.
12. The farm associated with the farm café must be an active agriculture operation, as the purpose of the farm café is to serve primarily local and regional foods in support of sustaining local agriculture.
13. The farm café conditional use need not be subordinate to the agriculture operation in terms utilized.
14. All sites with an on-site septic system must be inspected by the Township's Sewage Enforcement Officer to assure compliance with the Pennsylvania Sewage Facilities Act 537, as amended.
15. All applications for a farm café conditional use permit shall be accompanied by a land development plan prepared in accordance with the provisions of the Township's Subdivision and Land Development Ordinance.

M. Farmers Market

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

2. As an accessory land use, the following conditions shall apply:
 - a. A minimum gravel area equivalent to three parking spaces shall be available for the use of parking in the lot.
 - b. The market shall be open no more than 12 hours per day.
- N. Greenhouse/landscape nursery
1. No sales shall be permissible on the lot.
 2. The use shall be subject to the Township's standard Land Development requirements.
 3. The location, orientation and lot circulation shall be such as to minimize the disturbance of the surrounding open space.
 4. Equipment storage shall be permitted to include man-operated or mechanical equipment or other machinery that is in operable condition. The storage of inoperable vehicles is prohibited for this use.
 5. Site grading shall be completed to ensure that surface run-off is directed away from any and all material storage areas.
 6. An eight (8) foot high screen shall be constructed around the perimeter of any storage areas if equipment and/or materials are not contained within an enclosed building/area. The screen shall be measured from the average grade of the adjacent ground, unless otherwise defined by the applicable Township. The screen shall be eighty (80) percent opaque and composed of finished masonry, wood, or black or green vinyl-covered chain link fencing with eight (8) foot high evergreen plantings on the exterior side of the fence.
 7. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases or solids shall be permitted, with the exception of gasoline, diesel, propane, fuel and oil for the operation and maintenance of motorized vehicles and equipment.
 8. The ground surface of off-street parking shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances. Loading and equipment storage areas shall, at a minimum, be paved with crushed limestone aggregate.
 9. No more than one (1) identification sign shall be permitted; said sign shall be a ground or a wall sign. The graphic area of the sign shall not exceed forty (40) square feet.
- O. Guest House
1. A guest house as defined by this Ordinance may only be approved, established, or constructed on parcels of two (2) acres or more.
 2. A guest house shall not exceed five hundred (500) square feet of gross floor area.
 3. Unattached guest houses may only be located in a rear yard and shall be set back a minimum of ten feet (10') from rear and side property lines and shall not exceed a height of twenty-five feet (25').

4. The exterior architectural appearance of a guest house shall be compatible to that of the principal residential structure.

P. Kennels

1. Shall have a minimum lot size of five (5) acres.
2. Minimum of five (5) off-street parking spaces plus one for each employee.
3. All areas used for exercise shall be securely fenced.
4. All animals shall be within a completely enclosed building which shall be a minimum of one hundred and fifty (150) feet from any property line.
5. Animals shall be permitted to exercise daily between the hours of 8 A.M. - 8 P.M. All outdoor exercise areas shall be two hundred (200) feet from any property line.
6. Satisfactory evidence must be presented to indicate that adequate storage and disposal of animal waste will be provided in a manner that will not create a public health hazard or nuisance.
7. Evidence of adequate water supply and wastewater disposal must be provided by the applicant
8. A maximum number of animals on-site at any one time shall be twenty-five (25).

Q. Landscape/nursery, retail

1. The minimum lot size shall be 2 acres.
2. Active seasonal displays are permitted so as long as they are not located on any parking space designated to meet the minimum parking requirements. No other outdoor storage shall be permitted on the lot.

R. Manufacturing, light

1. All materials and equipment shall be stored within a completely enclosed building.
2. The use shall comply with all performance standards specified in this Ordinance.
3. The storage or manufacture of hazardous or potentially hazardous materials shall not be permitted.
4. Any outdoor storage conducted on the lot shall comply with Township standards.
5. Hours of operation and activities must be appropriately scheduled to protect the operation of the surrounding neighborhood from detrimental noise, dust, odor, vibration, light or other disturbance or interruption.
6. An inventory of toxic, corrosive, flammable, carcinogenic or explosive materials, chemical, liquids, gases or solids stored and/or used on site shall be available upon request.

S. Mixed Use building

1. Residential units shall not exceed 67% of the total floor area of a mixed-use building.

2. Notwithstanding any permitted density increases as part of a Master Plan, the maximum density of residential units shall not exceed the permitted density per acre of the zoning district in which the building will be located.
 3. Mixed-use buildings shall only be permitted as part of a Master Plan.
 4. A minimum of one (1) off-street parking space per 500 sf of commercial floor area plus 1.5 off street parking spaces for each residential unit.
- T. Office, business or professional
1. Off-street parking shall be provided in accordance with the provisions of this Ordinance.
 2. Buffering of parking and loading areas shall be provided in accordance with this Ordinance.
 3. A Delivery Zone Plan acceptable to the Township Engineer shall be submitted to demonstrate adequate delivery and associated circulation areas do not conflict with existing Township development and circulation patterns.
 4. All on premise signs shall conform to the signage requirements set forth in this Ordinance.
- U. Office, medical or dental
1. Facilities and equipment to support overnight boarding shall not be permitted.
 2. Access for emergency response shall be clearly distinguished and provided so that no parking or circulation of visitor or employee traffic blocks such access.
 3. Off-street parking shall be provided in accordance with the provisions of this Ordinance.
 4. Buffering of parking and loading areas shall be provided in accordance with this Ordinance.
 5. All on premise signs shall conform to the signage requirements set forth in this Ordinance.
- V. Place or worship/assembly
1. Submission and approval of a land development plan and traffic impact study per the requirements established in the Township's Subdivision and Land Development Ordinance.
 2. Primary or accessory uses that are not enclosed shall be limited to operating from dawn to dusk; exceptions may be made for organized activities that are held in outdoor areas with approved lighting.
 3. Impervious coverage limited to 30%.
 - a. Use of impervious material for parking is encouraged. Material must be approved by the Township Engineer.

- b. The design of permanent stormwater facilities to allow for recreational activities must be approved by the Township Engineer.
 - 4. Buffering of any accessory use within the boundary of the site shall not be required; however, landscaping shall be used to delineate the boundaries of the site from adjacent uses in separate ownership and all landscaping required within parking areas shall be provided.
 - 5. All signs, other than directional signage shall be located on site. The use of temporary event signage must be approved by the Zoning Administrator:
 - a. Any requests for on-site signage beyond that which identifies the principal use of the site or any that is approved as part of the land development plan shall be considered for approval at the sole discretion of Township Council. Such consideration may include a review of size, location, material, and illumination.
 - 6. Any other conditions that the Board of Supervisors determines are necessary to address the impacts associated with the specific use or the specific site.
- W. Recycling, small scale
 - 1. The maximum lot size shall be one-half acre.
 - 2. Only organic composting is permitted.
 - 3. The use shall be conducted within a completely enclosed building.
 - 4. Recycling storage containers shall be completely enclosed.
 - 5. Vehicular access shall not be from the primary commercial frontage if access from the rear or side is possible.
 - 6. Vehicular drop-off areas shall be located a minimum of sixty (60) feet from any intersection or driveway and shall not conflict with residential parking.
 - 7. Buffering of parking and loading areas adjacent to residential lots shall be provided in accordance with this Ordinance.
 - 8. Council shall determine that such use will not create detrimental impacts on the surrounding properties, taking into consideration probable traffic generation, truck routes, hours of operation, and noise generation.
- X. Research and development facility
 - 1. An inventory of toxic, corrosive, flammable, carcinogenic or explosive materials, chemical, liquids, gases or solids stored and/or used on site shall be available upon request.
 - 2. All storage of materials shall be within a completely enclosed building.
- Y. Riding academy and stables
 - 1. All applications for a riding stable and/or academy conditional use permit shall be

- accompanied by a land development plan.
2. The maximum impervious cover, exclusive of access, shall be 100,000 square feet or 10% of the lot size - whichever is less.
 3. All required off street parking spaces and aisles shall consist of six inches of crushed and compacted stone.
 4. Front, side and rear setbacks shall be a minimum of 50 feet.
 5. No outdoor activity or event lighting or loudspeaker system is permitted to be installed or used on the site. Security lighting is permitted; however, all lighting must conform to the standards of this Ordinance.
 6. Maximum building height shall be 40 feet.
 7. The site shall be subject to all code requirements set forth by this Ordinance.
 8. For maximum number of animals, see Keeping of Household Animals Other than Pets in Supplemental Regulations.
 9. Hours of operation shall be limited to dawn to dusk.
- Z. Self-storage facility
1. Minimum lot size, lot width and setbacks, and maximum lot coverage and building height shall conform to district standards. Minimum distance between buildings shall be twenty (20) feet.
 2. There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).
 3. The facility shall be surrounded by a fence of such height and design to restrict access to the warehouse and said fence shall not be less than six (6) feet in height and shall be located between the warehouse and any required vegetative screening.
 4. No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by water supply or a sewage disposal system.
 5. No storage unit shall be used for any other purposes except storage and shall not be used for any other type of commercial or manufacturing activity. No materials, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.
 6. All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.
 7. All storage units shall be fire-resistant and water-resistant.
 8. All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules

and regulations to ensure that the requirements of the Ordinance are or will be satisfied.

9. An on-site manager shall be present during normal business hours.
10. The maximum impervious surface coverage is 80%.
11. The landowner and/or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of zero (0) footcandles. Outdoor lights shall not exceed 18 feet in height.

AA. Reserved

BB. Spa

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

CC. Tasting room

1. Hours of operation are limited to 8 a.m. to 10 p.m.
2. The parking requirements set forth in this Ordinance shall be met.

DD. Tiny Home

1. A tiny home shall have a minimum of one hundred fifty (150) square foot, and a maximum four hundred (400) square foot of habitable floor area.
2. A tiny home must be served by water and sewer. Connection to public water and/or sewer shall conform to the regulations of the authority responsible for each utility. If public water is unavailable, the tiny home must be served by an on-lot well. Any connection to and/or expansion of an individual on-lot sewage disposal system shall be reviewed by the Sewage Enforcement Officer, and the applicant shall present evidence of such review and all necessary approvals.
3. Setbacks, density, and required off-street parking shall be as required for single-family dwellings in the applicable zoning district in which the tiny home is located.
4. Based on building type and occupancy of the tiny home, a certificate of occupancy is required and must be based on approval under the following building code requirements: UCC building code or HUD building codes AND Recreational Vehicle Industry Association (RVIA) safety standards. See definition of Tiny Home in this Ordinance.
5. The construction or location of a tiny home as a second dwelling on a lot, other than

to be utilized as an assisted-care accessory apartment, shall be considered a land development and shall require planning approval as regulated by the Township Subdivision and Land Development Ordinance.

EE. Urban agriculture

See keeping of Household Animals Other than Pets in Supplemental Regulations.

FF. Vehicle Repair Services

1. Hours of operation shall be limited to 7 a.m. to 7 p.m.
2. Minimum Setbacks from Street Right-of-ways lines:
 - a. Building: fifty feet (50')
 - b. Canopies: twenty feet (20')
3. Driveways shall be located as provided in this Ordinance.
4. All service equipment shall be set back not less than twenty-five feet (25') from any lot line and so located that vehicles stopped for service will not extend over the property line.
5. Access drives:
 - a. Minimum offset from intersection of street right-of-way lines: forty feet (40');
 - b. Side lot line offset: 10 feet (10')
 - c. Minimum width: twelve feet (12')
 - d. Maximum width: thirty-five feet (35')
 - e. Minimum separation of drives on same lot: twenty-five feet (25')
6. Motor vehicles shall not be permitted to be parked or to stand on sidewalk areas.
7. Except along access drives, a concrete curb eight inches (8") in height must be placed along all street right-of-way lines.
8. All merchandise shall be displayed within a building. Vending machines shall be maintained in a semi- enclosed structure or within the building.
9. No outdoor stockpiling of tires, auto parts, or outdoor storage of trash is permitted. An area enclosed by a wall or fence, screened from view of adjoining properties, shall be provided whenever outdoor storage is permitted. No materials may be stored so as to create a fire hazard.
10. All lights must be diverted inward and downward.
11. The outdoor storage of unlicensed vehicles is prohibited.
12. All vehicles shall be serviced and removed from the premises within thirty (30) days.
13. The demolition or junking of vehicles, trailers, boats, and other machinery is prohibited.

14. One kiosk is permitted on the gasoline service island, no larger than 10' by 10' and within the pump setbacks.
15. All service and/or repair activities shall be conducted within a wholly enclosed building.
16. No outdoor storage of parts, equipment, lubricants, fuel or other materials, new or used or discarded, as part of the service or repair operation, shall be permitted.
17. All exterior vehicle storage areas shall be screened from adjoining residentially zoned or residentially used lots and roads.
18. The storage of unlicensed vehicles for more than thirty (30) days is prohibited.
19. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed towards any adjoining residentially zoned or used property and conform to all outside agency requirements.

GG. Warehouse

1. Every portion of the property used for warehouse uses shall be located not closer than two hundred (200) feet from any abutting property that is in a different zoning district.
2. All vehicular maneuvering shall be located on-site.
3. Curb cuts shall be minimized to the maximum extent feasible in order to achieve access to the site.
4. The approving body shall determine that such use will not create detrimental impacts on the surrounding properties, taking into consideration the probable traffic generation, the physical relationship of the proposed use and structure to surrounding uses and structures, the emission of noise or glaring light, and proposed accessory uses, such as meeting facilities.
5. Loading areas shall not be visible from a public right of way or an adjacent residence. A landscaped buffer yard a minimum of twenty-five (25) feet in width shall be provided adjacent to all existing residences. Buffer yards shall be landscaped with a combination of deciduous and evergreen trees, shrubs, ornamental grasses and groundcovers.
6. Grass, sod, lawn or turf shall not be considered an acceptable plant for use within landscaped buffer yards.
7. Outdoor storage of foods and/or materials shall not be permitted.
8. The ground surface of off-street parking and loading spaces shall be paved with bituminous paving, brick, concrete or store block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.

HH. Wholesale Establishment

1. Truck parking shall be located along the side and/or rear of the lot. Truck bays shall be located along the side and/or rear of the structure on lot.

2. No deliveries shall occur during the hours of 10 p.m. and 6 a.m.
3. Maximum impervious surface coverage is 80%.
4. Maximum lot size is 5 acres.
5. A traffic plan shall be submitted along with the application.

ARTICLE 7
Off-Street Parking and Loading

Section 7.1 – General Regulations for Parking Facilities

A. Availability of Facilities

Off-street parking, loading, and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.

B. Lighting

Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.

C. Public Right-of-Ways

Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with Township parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street, except for single-family and two-family dwellings with access onto a local street or parking court.

D. Off-Street Parking in the Mixed Use District

Off-street parking for uses involving new construction in the Mixed Use District shall be provided to the rear of the principal structure. In the case of a change in use in the Mixed Use District which does not involve an expansion of a structure or additional floor area, additional off-street parking shall be provided equal to the difference between the number of spaces required by §7.1E for the new use and the number required for the existing use as though parking had been provided in accord with §7.1E. The replacement of non-conforming uses in the Mixed Use District shall not require parking as required by §7.1E.

E. Number of Spaces To Be Provided

1. Any structure or building not exempted by §7.1D and which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off-street parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

2. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
3. Additional parking for the handicapped shall be provided in accord with §7.1L.
4. Should the applicant provide evidence that the number of parking spaces required by this Article §7 is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a conditional use by a maximum of fifty percent (50%) provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this Section 7 and the applicant shall agree in writing to install the parking at the direction of the Township Supervisors. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two (2) or more principal uses may be considered for a parking reduction (See §1.1L).
5. To lessen the effects of storm water runoff and creation of heat sinks due to large parking areas, the Subsection 7.1.1 Table should be acknowledged as both the minimum and maximum number of parking spaces required. Any applicant requesting to exceed the limit by more than 5% must show proof of why the minimum space requirement is not sufficient.

F. Parking and Loading Area Buffers

All parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from any public road right-of-way or adjoining property lines by a buffer area not less than three (3) feet in width unless adjoining uses share parking in accord with §7.1I. In the case of adjoining R-1, R-2, R-3 or RP Districts, the buffer shall be increased to ten (10) feet. Buffers shall be improved in accord with §7.2.

1. Measurement - The width of the buffer shall be measured from the curb line or from the legal right-of-way line after development if no curbs will be provided.
2. Uses Prohibited - The buffer area shall be maintained in natural vegetative ground cover and shall not include:
 - a. Paving except for approved driveway crossings
 - b. Fences
 - c. Parking, storage or display of vehicles
 - d. Items for sale or rent
3. Uses Permitted - The buffer area may include the following:
 - a. Permitted freestanding signs
 - b. Pervious storm water facilities

- c. Approved driveway/access way crossings
- 4. Sidewalks - If sidewalks exist or will be provided, the buffer area may be provided between the sidewalk and the street or between the sidewalk and the parking lot.
- 5. Clear Sight Triangles - All required clear sight triangles at intersections shall be maintained.

G. Surfacing

Off-street parking areas and driveways/access ways shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface of concrete or bituminous concrete surface constructed in accord with accepted standards to assure durability.

H. Off-Lot Parking

A principal use located within four hundred (400) feet of another use, within the same Zoning District, that has excess of available parking spaces due to the principal use operating at different time(s) or for any other reason, the principal use seeking the shared parking arrangement may, as a conditional use, seek approval of a shared parking arrangement before the Board of Supervisors. Council may submit the application to the Clarks Summit Planning Commission for recommendations.

I. Joint Use Parking

In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §7.1F. The standards in §7.1E for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

J. Existing Parking Areas

No existing parking area or any off-street parking shall be eliminated, reduced in size or otherwise altered so that any use is served by less parking than is required by this Ordinance.

K. Parking for Residential Use

Off-street parking shall be provided in accord with this §7 for all residential uses in all Districts.

L. Handicapped Parking

1. Number of Spaces - Any lot including four (4) or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is established under the Federal Americans With Disabilities Act (ADA).

Total # of Required Spaces on Parking Lot	Required Minimum # / % of Handicapped Parking Spaces
4 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

2. Location - Handicapped parking spaces shall be located where access to the use is via the shortest reasonable accessible distance. Curb cuts with an appropriate slope shall be provided as needed to provide access from the handicapped spaces.
3. Minimum Size - Each required handicapped parking space shall be a minimum of eight (8) feet by eighteen (18) feet. In addition, each space shall be adjacent to an access aisle five (5) feet in width. Such access aisle may be shared by two (2) handicapped spaces by being placed between the spaces. In order to provide for van accessibility, one (1) of every eight (8) required handicapped spaces shall have an adjacent access aisle of eight (8) feet in width instead of five (5) feet.
4. Slope - In accord with ADA requirements, handicapped parking spaces shall be located in areas of less than two (2) percent slope in all directions.

5. Marking - All required handicapped spaces shall be well-marked by clearly visible signs and/or pavement markings.

Subsection 7.1.1 – Table of Off-Street Parking Requirements

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Homes for handicapped or infirm, nursing homes, group homes, halfway houses and similar uses	3 per every 5 beds '
C. Hotels, motels, boarding and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations	1.1 per bedroom
D. Sales and rental of goods, merchandise and equipment	
1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
3. Flea markets	1 per 200 square feet of lot area designated for display or sales
E. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance, banks, service establishments, and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment	1 per 600 SFGFA
G. Educational, cultural, religious, social, fraternal uses	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFG FA open to the public
3. Places of worship	1 per every 4 seats used for services
4. libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per 300 SFGFA open to the public
H. Recreation, amusement and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 3 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats

USE	PARKING SPACES REQUIRED
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 3 persons of fully utilized design capacity
4. Docking facilities	1 per every 3 slips
I. Health related facilities	
1. Hospitals, clinics and other medical treatment facilities	1 per bed or 1 per 200 SFGFA, whichever is greater
2. Nursing homes, personal care homes	1 per five resident beds at maximum capacity
J. Restaurants, bars, taverns and other eating establishments	1 per 50 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
K. Vehicle related uses	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car or truck wash	1 per employee plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
4. Truck terminals	1 per 200 SFGFA devoted to office use plus 2 per company vehicle using the facility
5. Bus terminals	1 per 200 SFGFA devoted to office use plus 0.75 per seat of the total capacity of buses serving riders who travel round-trip during the peak twelve-hour period of the day
L. Warehousing and storage	1 per 2,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA
2. Nursery schools and day care	1 per staff member plus 1 per 5 clients at maximum capacity
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Post office	1 per 200 SFGFA open to the public
6. Recycling centers	1 per employee with a minimum of 2
7. Kennels	1 per 400 SFGFA with a minimum of 4
8. Institutional uses	1 per employee plus 1 per 25 inmates/residents

Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.

For uses not specifically provided above, the Zoning Officer is authorized to determine the required number of spaces based upon the similarity of the proposed use to the uses provided. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board. It shall be the duty of the Zoning Hearing Board to render its determination with respect thereto.

Section 7.2 – Design Standards for Parking Facilities

A. Size and Design of Parking Spaces

Parking shall be provided in accord with an overall parking plan prepared in accord with generally accepted design standards and which takes into consideration access design and control, size and shape of the parking area, types of vehicles using the parking area, traffic patterns and other applicable considerations. The net parking space per vehicle shall be not less than nine (9) feet wide and eighteen (18) feet long. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended.

- B. Distance from Intersections • At a minimum, the following distance shall be maintained between the centerline of any driveway/access way and the centerline of any street intersecting the same street as the driveway/access way:

Type of Street	Minimum Separation Distance
State	75 feet
Township	50 feet

- C. Highway Occupancy Permit - A Township or State highway occupancy permit, as applicable, shall be required for any new access or access proposed for increased average daily traffic to any public street or any other regulated activity within the right-of-way.

D. Landscaping

All improved off-street parking areas not entirely contained in a garage or building shall comply with the following landscaping standards:

1. Buffer Areas - The buffer area required by §7.1F shall be landscaped to a minimum of thirty (30) inches in height including vegetation; of which a minimum of fifty (50) percent shall be evergreen shrubbery; and shall average at least one shrub for every ten (10) feet of frontage.
2. Parking Lot Interiors - A minimum of five (5) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained with landscaping, including trees and shrubs in plots of at least sixty (60) square feet in area. One (1) deciduous tree with a trunk diameter of not less than one (1) inch measured at a height of one (1) foot above finished grade shall be provided for

every three thousand (3,000) square feet of paved area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. In no case shall more than fifteen (15) spaces be permitted in a continuous row without interruption by landscaping, and not more than sixty (60) spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.

3. Plants - Plant species shall be of a type proven suitable to local soil and climate conditions and which are resistant to disease, road salt and air pollution as determined by the Township. All landscaping including plants shall be protected from damage by vehicles and shall be maintained in a good condition with plants that have died being replaced by similar plants.
4. Plan - A landscaping plan showing the arrangement of the landscaping and parking areas and including plant sizes and species shall be submitted by the applicant for approval by the Township.

E. Residential Parking

1. Garages and carports not in the public right-of-way may be considered parking spaces, provided that the vehicle in the garage or carport has unobstructed access to the street.

Section 7.3 – Parking of Commercial, Recreational, and Junk Vehicles

Parking of Unregistered Vehicles, Commercial Vehicles and Junk Vehicles

A. Purpose - To prevent the character of residential areas from being harmed by nuisances, hazards and visual blight, and to prevent the establishment of junkyards in residential districts.

B. Storage of Unregistered, Commercial or Junk Vehicles.

1. Definitions - For the purposes of this §7.3, the following terms shall have the following meanings:
 - a. Commercial Vehicle - A motor vehicle that has a gross vehicle weight of greater than six thousand (6,000) pounds and is primarily used for business purposes, including but not limited to making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material.)
 - b. Tractor or a Tractor-Trailer - A truck with a minimum of three (3) axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.

- c. Trailer of a Tractor-Trailer - commercial vehicle with a length of 20 feet or more that is not self propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."
2. Residential District - Within a residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or safety inspection and registration that expires less than 90 days prior) and no "abandoned or junk vehicle" (as defined by Article III), motor home, recreational vehicle, camper, bus or ambulance shall be parked or stored in any way that is visible from a public street or an adjacent dwelling.
3. Non-Residential District - Within a non-residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or safety inspection and registration that expires less than 90 days prior) and no "abandoned or junk vehicle" (as defined by Article III), shall be parked or stored in any way that is visible from a public street or an adjacent structure. This §7.3 shall not apply to a permitted auto sales use, auto service station, junkyard or auto repair garage, provided that the regulations for that use are met.
4. Exceptions - This section does not apply to the following, provided they are in an operational condition:
 - A. Municipally-owned vehicles
 - B. Vehicles operated by the U.S. Postal Service or a level of government or a Municipal Authority
 - C. Vehicles actively engaged in the construction or repair of buildings, streets, curbs, sidewalks, rehabilitation or utilities in the immediate area
 - D. Vehicles actively engaged in making routine household deliveries or rendering routine household services to a property that is adjacent or on the same lot as the vehicle is parked.
5. Commercial Vehicles in a Residential District
 - A. In a residential district, a maximum of two (2) "vehicles" which are commercial in nature (having a business name painted on it and/or other advertising on it) may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of

transportation between their home and work. No commercial vehicle in a residential district shall have a gross vehicle weight of over eight thousand (8,000) pounds if parked outside of an enclosed building.

- B. In a residential district, the engine of a tractor of a tractor-trailer shall not be idled for more than 10 minutes on the property between the hours of 10 p.m. and 6 a.m. or be repaired, except for clearly emergency repairs.
- C. No trailer of tractor-trailer shall be parked, stored, maintained or kept in a residential district for more than 8 hours in any forty-eight (48) hour period.
- D. See the requirements of the State Motor Vehicle Code that require vehicles parked on a public street to have current registration.

Section 7.4 – Off-Street Loading

A. Loading and Unloading Areas

In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district. for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other non-residential uses, to provide adequate off-street areas for loading and unloading of vehicles. The applicant shall provide, to the satisfaction of the Zoning Officer, Board of Supervisors or Zoning Hearing Board, as the case may be, documentation that the use will have sufficient numbers and sizes of loading facilities.

Largest Type of Truck Service	Minimum Width (feet)	Minimum Length (feet)
Tractor trailer	12	55 with 12 ft clear height
Trucks other than tractor trailers, pick-ups or vans	10	25
Pick-up truck or van	9	18

B. Access to Off-Street Parking and Loading Areas

There shall be adequate provisions for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:

1. Width - Unless otherwise required by PennDOT for access to a state road, the width of the driveway/access way onto a public street at the edge of the cartway shall be as follows:

WIDTH	1-Way Use	2-Way Use
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet

2. Controlled Access • Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit.
3. Distance Between Non-residential Driveways · In no case shall one entrance or exit be located within fifty (50) feet of any other on the same property or adjoining property along the same public right-of-way.

**ARTICLE 8
Signs**

Section 8.1 – General Requirement

- A. Signs may be erected and maintained only when in compliance with the provisions of this section and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices.
- B. Signs erected and maintained in the Historic District Overlay Zone are subject to the requirements of Section 501 of the Waverly Township Historic District Ordinance.

Section 8.2 – Statement of Purpose

- A. It is the intent of the Article to provide for a comprehensive but balanced system of sign control to the end that signs are:
 - 1. Compatible with their surroundings.
 - 2. Appropriate to the type of activity to which they pertain.
 - 3. Expressive of the identity of individual proprietors or the community as a whole.
 - 4. Conducive to the safety of the traveling public.

Section 8.3 – Classification

- A. For the purposes of this ordinance, signs shall be classified in one of the four (4) following categories:
 - 1. Information - including public or private directional, street, or traffic signs, address numbers, and other signs of similar nature.
 - 2. Personal - including name plates, minimal impact home-based businesses and signs of a similar nature.
 - 3. Temporary - including for sale, lease or rent signs, special events, construction signs, directional signs to special or temporary events, and signs of a similar nature.
 - 4. Advertising - including signs, graphics, or displays for commercial, industrial, or institutional activities located either on-site or off-site, the purpose of which is to sell or index a product, service or activity.

Section 8.4 – Information Signs

- A. Information signs are permitted in all districts subject to the following:
1. Directional, street, and traffic signs, devices, and graphics erected by Depts. of the U.S. Government, State, County, and Township government shall not require any permit. The flag, emblem or insignia of a nation, state, county, municipality or public school system when not displayed as part of an advertisement, shall not require any permit.
 2. Directional signs for private activities shall require a permit and, dependent upon the location, be subject to the following:
 - a) If erected along a road right-of-way and directing traffic to a facility or activity not located on the property on which the sign is erected, the sign shall:
 - 1) be erected only at the minimum number of intersections on the most direct route from a minor-collector route within the township and only at intersections approved by the Board of Supervisors.
 - 2) be limited in content to: the name of the business, enterprise or subdivision, the distance to the facility in miles, and a directional arrow.
 - 3) under no circumstances index any enterprise which is more than four (4) miles distant from the sign location.
 - 4) the maximum dimensions of the sign shall be fifteen (15") inches by forty-eight (48") inches and no more than five (5) square feet in area.
 - 5) be located beyond the road right-of-way and outside any required clear-sight triangle.
 3. If erected on private property on which the facility is located:
 - a) be erected beyond the road right-of-way and outside any required clear-sight triangle.
 - b) not index any enterprise which is not located on the property.
 - c) not exceed five (5) square feet in area.
 - d) be limited in content to: the name of the business or enterprise, a directional information, distance, and a directional arrow.
 - e) be limited to one (1) sign on each road fronting on the property on which the facility is located.

Section 8.5 – Personal Signs

- A. Name plates, personal identification, minimal impact home-based business, or bed and breakfast home signs are permitted on the premises (on-site) in all districts provided such signs do not exceed two (2) square feet in area, or exceed four (4) feet in height. Such signs shall be limited to one sign for each entrance, exit, dwelling or building to which it pertains. Personal signs within the Waverly National Register Historic District Overlay Zone shall be subject to the requirements relating to signs as set forth in the Waverly Township Historic District Ordinance.
- B. Private Driveways - Signs indicating the private nature of a driveway, or trespassing signs, are permitted in all districts, provided that the size of any such sign shall not exceed two (2) square feet.

Section 8.6 – Temporary Signs

- A. Temporary signs, displays, or graphics for a special event or purpose legally permissible in the township are permitted in all districts subject to the following:
 - 1. Real Estate Signs - Temporary signs advertising the sale, lease, or rental of the property upon which the sign is located are permitted, subject to the following:
 - a) The signs shall not exceed six (6) square feet in area and three (3) feet in height from the ground to the top of the sign.
 - b) The number of signs shall be limited to one sign facing each street frontage of the property.
 - c) All signs shall be removed within seven (7) days following the execution of a lease, rental, or sale of the property to which the sign refers.
- B. Special Event Signs - Signs or graphics which refer or relate to any single temporary event of one week or less in duration are permitted in all districts provided: the sign does not exceed six (6) square feet in area, does not exceed six (6) feet in height, is not illuminated, is not erected more than one month preceding the event, and is removed by the owner or applicant within seven (7) days following the event.
- C. Construction or Artisans' Signs - One (1) temporary non-illuminated sign denoting the owner, architect, engineer, contractor, or artisan or the name or type of project may be placed on any premise where construction, repair, or renovation is in progress provided:
 - 1. Any such sign shall not be erected more than two (2) weeks in advance of the start of construction and shall be removed no later than two (2) weeks following completion of construction.
 - 2. Any such sign shall not exceed six (6) square feet in area in any zoning district.
 - 3. Any such sign shall not exceed eight (8) feet in height in any zoning district.
- D. Farm Product Signs - Signs advertising the sale of farm products when permitted by this ordinance, shall be allowed, provided:

1. The size of any such sign is not in excess of six (6) square feet, and,
2. Not more than two (2) signs are used, and,
3. The signs shall be displayed only when such products are on sale.

Section 8.7 – Advertising Signs

A. On-Site Advertising Signs (BUSINESS SIGNS) - Commercial, industrial, or institutional activities are permitted to erect only one on-site sign or display for each side of the parcel or lot fronting on a public highway, subject to the following:

1. Wall Signs and Projecting Signs

- a) The permitted area of parallel and projecting signs shall be limited to six (6) square feet.
- b) Wall or projecting signs shall not be located or erected on the roof areas of any building, shall be located only on the building walls, and may not project above the building roof line.
- c) Projecting signs shall not project into the road right-of-way.

2. Free Standing Signs or Graphics

- a) On-site free standing signs or graphics shall be erected beyond the road right-of-way and outside any required intersection clear-sight triangle.
- b) On-site free standing signs shall not exceed six (6) square feet in area.
- c) On-site free standing signs shall not exceed eighteen (18) feet in height.

B. Institutional Signs - Signs of schools, colleges, churches, hospitals, sanatoria, or other institutions of a similar nature may be erected and maintained, provided:

1. The size of the sign is not in excess of six (6) square feet, and,
2. Not more than two (2) signs are placed on a property.

C. Residential Development Signs - Signs identifying residential developments are permitted provided

1. The residential development contains a minimum of five (5) lots and/or housing units
2. One identification sign is permitted at each access road intersection with a public road.
3. The maximum size of the sign shall be six (6) square feet.

4. The maximum height of the sign shall be eight (8) feet above the finished centerline grade of the intersected public street at the point of intersection with the development access road.
5. The content shall be limited to the recorded name of the residential subdivision or development.
6. The sign shall be located beyond road right-of-ways and outside any required clear-sight triangle.

Section 8.8 – Area of Signs

- A. The area of a sign shall be construed to include all lettering, wording, and accompanying designs, and symbols together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.
- B. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other regular shape, including the sign background, which encompasses all of the letters and symbols.
- C. In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical in size. If the interior angle formed by the two faces of the double-faced sign is greater than forty-five (45^o) degrees, than both sides of such sign shall be considered in calculating the sign area.

Section 8.9 – Nonconforming Signs

- A. Awning, canopy, and marquee signs are permitted for all commercial, industrial, and institutional activities in Commercial districts. The area of these signs shall be considered to be part of the total permitted advertising sign area.
- B. Window signs shall be permitted for all commercial, industrial, and institutional activities in Commercial districts and shall be limited to lettering which identifies the occupant or activity. The window sign shall not exceed twenty-five (25) percent of the total window area of the occupied floor of the building side facing each street frontage.
- C. Signs affixed to any vehicle in such a manner that the carrying of such sign no longer is incidental to the vehicle's primary purpose in itself are prohibited in all districts.
- D. Signs on mobile stands which can be moved from place to place are permitted only as temporary signs specified in this Article.
- E. Illuminated signs are permitted in the CI Zoning District. Signs may be illuminated by direct or indirect lighting but shall have such lighting shielded or directed so that no glare, reflection or direct light will shine on abutting properties or in the normal line of vision of motorists or pedestrians. White is the only color of light permitted to illuminate signs. Flashing or intermittent light or signs are prohibited in all districts.

- F. Banners, spinners, flags, pennants, balloons, animated or moving signs are prohibited in all districts.

Section 8.10 – Nonconforming Signs

- A. Construction - All signs shall be constructed of durable materials, be designed to withstand expected wind pressures and be erected so as to withstand damage and deterioration from the elements.
- B. Maintenance - Every sign, including those specifically exempt from permits and permit fees, shall be maintained in good structural condition at all times. Signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant materials.
- C. Dangerous and Dilapidated Signs - No person shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or dilapidated condition.
- D. Abandoned Signs - Any off-site sign which indexes or pertains to a business which is discontinued for a period of twelve (12) months or more shall be deemed to have been abandoned. Any sign which pertains to a time, event or purpose which no longer applies shall be deemed to be abandoned. On-site signs for businesses, products etc., which have been vacant, unoccupied or discontinued for a period of twelve (12) months or more shall be deemed to be abandoned. Abandoned signs are prohibited.

Section 8.11 – Nonconforming Signs

- A. Continuance - Signs which are in existence at the time of adoption of this ordinance which are in non-conformance with the ordinance by virtue of location, proximity to another sign, nature of use, area, height, lighting, or other aspect shall be permitted to be continued, provided that:
 - 1. The sign is not abandoned.
 - 2. The sign is maintained in good repair.
 - 3. The degree or types of non-conformities are not increased.
- B. Modifications - Owners of non-conforming signs or the owner of the premises upon which non-conforming signs are located may be required by the Board of Supervisors to make certain modifications to existing non-conforming signs including but not limited to the removal of prohibited or objectionable elements including banners, flashing lights, spinners, and other moving parts; the modification of lighting to reduce reflection, glare or direct light shining onto abutting properties or in the vision of motorists or pedestrians; and the modification of structural elements of signs deemed to be defective or inadequate in their existing condition.
- C. Removal

1. Off-site non-conforming directional and advertising signs which are abandoned, deemed dangerous or dilapidated or which have more than fifty (50%) percent of their replacement value destroyed shall be required to be removed by the owner of the sign or owner of the property upon which the sign is located. Any replacement of signs shall be required to meet all location, size, heights, construction, and other requirements of this ordinance.
2. On-site non-conforming signs which are abandoned, dangerous or dilapidated or which have more than fifty (50%) percent of their replacement value destroyed shall be required to be removed by the owner of the property or owner of the sign. Any replacement of signs shall be required to meet all location, size, height, construction, and other requirements of this ordinance to the greatest degree and every respect possible.

Section 8.12 – Permits

- A. Personal signs, temporary real estate signs, temporary construction signs, and temporary farm produce signs shall meet requirements of this Article but shall not require any zoning permit.
- B. All other signs may not be displayed or erected unless a permit has been issued pursuant to an application filed with the Zoning Officer.
- C. Repair or repainting of existing signs shall require the issuance of a permit pursuant to an application filed with the Zoning Officer.
- D. Planning Commission Review - The Zoning Officer shall submit all applications for sign permits to the township planning commission for its review and recommendation prior to any approval or disapproval of the application. The planning commission shall consider the regulations and requirements governing signs in this Article and may consider other factors of the proposed sign to be erected which could affect the desirability, property values or harmonious development of the surrounding area. Such factors may include but are not limited to:
 1. The type of quality of design in relation to the character of the existing development in the affected area.
 2. The size and placement of the sign in relation to other signs or architectural details of the surrounding buildings.
 3. Appropriateness of proposed colors, in relation to the surrounding development.
 4. Appropriateness of lighting in relation to surrounding development and uses.
 5. Appropriateness of sign location in relation to other conforming uses established in the immediate area and in relation to the intent of the zoning ordinance for future development of the immediate area.
- E. The planning commission's review and comment shall be advisory to the zoning officer, supervisors, and sign permit applicant.

- F. The planning commission shall make its review and provide written recommendation on the application to the zoning officer, supervisors, and the applicant within thirty (30) days of receipt of the copy of the application from the zoning officer.

Section 8.13 – Fees

- A. Temporary Signs - A permit fee is required and a fifty (\$50) dollar cash bond is required for each applicant or event which shall be refundable upon removal of the signs as required in Section 906.
 - 1. The fee for temporary sign permits may be set by resolution of the Board of Supervisors within a township fee schedule for time to time.
- B. Permanent Signs - Permit fees will be required for the following types of permanent signs:
 - 1. Each directional sign for a private activity as provided under Section 904 b).
 - 2. Each on-site advertising sign, institutional sign and residential development sign.
 - 3. Repair or repainting or modification of any existing sign.
- C. These fees may be set or revised from time to time within a fee schedule adopted by resolution of the Board of Supervisors.

**ARTICLE 9
Nonconformities**

Section 9.1 – Intent and Applicability

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

Section 9.2 – Nonconforming Uses

- A. Expansion of Nonconforming Residential Uses.

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

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

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

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

C. Abandonment of Nonconforming Uses.

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

D. Nonconforming Outdoor Storage Activities.

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

E. Change from One Nonconforming Use to Another.

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

F. Nonconformities Due to Zoning Changes.

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

Section 9.3 – Nonconforming Structures

A. Reconstruction or Expansion of Nonconforming Structures.

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

B. Damaged or Destroyed Nonconforming Structures.

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

C. Abandonment of Nonconforming Structures.

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

D. New Construction and Building Permits.

1. New Construction.

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

2. Building Permits and Nonconformities.

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

Section 9.4 – Nonconforming Lots of Record

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

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

B. Integration of Nonconforming Lots.

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

Section 9.5 – Registration of Nonconformities

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

ARTICLE 10
Zoning Hearing Board

Section 10.1 – Organization and Procedure

A. Organization.

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

B. Membership, Terms, and Vacancies.

The membership of the Zoning Hearing Board shall consist of three (3) residents of Waverly Township appointed by the Waverly Township Board of Supervisors by resolution. Their terms of office shall be three (3) years and shall be so fixed that the term of office of no more than one (1) member shall expire each year. The Zoning Hearing Board shall promptly notify the Waverly Township Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in Waverly Township.

C. Removal of Members.

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

D. Appeals and Applications to the Zoning Hearing Board.

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

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

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

E. Conduct of Hearings.

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

F. Expenditures for Services.

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

Section 10.2 – Zoning Hearing Board Functions

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

- A. Substantive challenges to the validity of any land use ordinance, except when a curative amendment is brought before the Waverly Township Board of Supervisors;
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance;
- C. Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-deist order or the registration or refusal to register any nonconforming use, structure, or lot;

- D. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to any floodplain or flood hazard ordinance or such provisions within a land use ordinance;
- E. Applications for variances from the terms of this Ordinance;
- F. Applications for uses by special exception under the terms of this Ordinance;
- G. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of this Ordinance;
- H. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC); and
- I. Appeals from any determination of the Township Engineer or the Zoning Officer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development applications or applications for a planned residential development.

Section 10.3 – Variances

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

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

Section 10.4 – Uses by Special Exception

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

Section 10.5 – Parties Appellant Before the Board

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

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

Section 10.6 – Hearings and Decisions

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

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

- B. The parties to the hearing shall be the applicant, the municipality, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person, including civic or community organizations, permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall require all persons who wish to be considered parties to enter such request on an appearance form provided by the Zoning Hearing Board for that purpose.
- C. The Chairman of the Zoning Hearing Board or the hearing officer presiding shall conduct the hearing and shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and/or the production of relevant documents and papers, including witnesses and documents requested by the parties.
- D. The parties in a hearing shall have the right to be represented by counsel and shall be afforded the opportunity to respond, present evidence and cross-examine adverse witnesses on all relevant issues.
- E. Formal rules of evidence shall not apply and irrelevant or redundant evidence may be excluded.
- F. The first hearing before the Zoning Hearing Board or the hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time.
- G. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
- H. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
- I. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearings within the 100 days, including the first hearing.
- J. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of additional hearings for rebuttal.
- K. The Zoning Hearing Board, or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer, or shall be paid by the person appealing the decision of the Zoning Hearing Board if such an appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

- L. The Zoning Hearing Board, or the hearing officer, as the case may be, shall not communicate, directly or indirectly, with any party and/or representative of any party in connection with any issue relevant to the hearing except upon notice and opportunity for all parties to participate; shall not take notice of any communications, reports or other materials, except advice from the Zoning Hearing Board's legal counsel, unless all parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings with any party and/or representative of any party after the start of hearings unless all parties are given an opportunity to be present.
- M. The Zoning Hearing Board, or the hearing officer, as the case may be, shall render a written decision, or, when no decision is required, a written finding on the application, within 45 days after the last hearing. Decisions shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Ordinance or any other ordinance or regulation shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- N. If the hearing is conducted by a hearing officer and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make the hearing officer's report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings. The Zoning Hearing Board may concur in the hearing officer's decision, overturn it, or order a new hearing, provided that such decision by the Zoning Hearing Board is entered no later than 30 days after the report of the hearing officer.
- O. Where the Zoning Hearing Board fails to render the decision within the period required by this Section or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing or on the record, to an extension of time.
- P. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as herein provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to the Lackawanna County Court of Common Pleas.
- Q. A copy of the final decision, or the findings, if no decision is required, shall be mailed to the applicant not later than the day after the date of the decision. All others requesting notice of the decision not later than the last day of the hearing shall receive by mail a summary of the findings or decision and a statement of the place at which the full decision or findings may be examined.

Section 10.7 – Mediation

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

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

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

Section 10.8 – Time Limitations

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate Township officer, agency, or body, if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC), shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the preliminary submission.

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

Section 10.9 – Appeals to Court and Other Administrative Proceedings

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

ARTICLE 11
Administration and Enforcement

Section 11.1 – Permits and Certificates

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

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

B. Permits.

1. Zoning Permits.

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

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

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

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

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

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

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

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

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

- (1) The actual dimensions and shape of the lot to be developed;

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

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

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

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

2. Certificates of Use and Occupancy.

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

3. Building Permits.

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

Section 11.2 – Zoning Officer

A. Appointment and Powers of the Zoning Officer.

It shall be the duty of the Zoning Officer to:

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

9. To perform other duties in the administration and enforcement of this Ordinance as may be directed by the Waverly Township Board of Supervisors.

Section 11.3 – Fees

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

Section 11.4 – Violations, Penalties, and Remedies

- A. Causes of Action.

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

- B. Enforcement Notices.

1. If it appears to the Township that a violation of this Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Subsection.
2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
3. An enforcement notice shall be in writing and shall state at least the following:
 - (a) The name of the owner of record and any other person against whom the Township intends to take action;
 - (b) The location of the property in violation;

- (c) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance, and an outline of remedial action which, if taken, will bring such property compliance with the provisions of this Ordinance;
 - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
 - (e) A statement that the recipient of the notice has the right to appeal to the Zoning Hearing Board; and
 - (f) A statement that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
 4. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
 5. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
- C. Penalties and Remedies.
 1. District Justices shall have initial jurisdiction over proceedings brought under this Ordinance.
 2. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice, in assessing if there has been a further violation, determines that there was a good faith basis for the person, partnership, or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation.
 3. The Lackawanna County Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
 4. Nothing contained in this Ordinance shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Ordinance.

Section 11.5 – Planning Commission

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

A. Membership.

1. The membership of the Planning Commission shall consist of five (5) members, all of whom shall be residents of Township. At least three (3) of the five (5) members shall be citizen members and shall not be officers or employees of the Township.
2. The term of office for each member shall be four (4) years, and the terms of no more than two (2) members shall expire in any calendar year.
3. When any vacancies occur, the chairman of the Planning Commission shall promptly notify the Waverly Township Board of Supervisors, upon which a member of the Waverly Township Board of Supervisors shall fill the vacancy for the unexpired portion of the term until a replacement member is found.

B. Duties.

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

1. Represent the Township in the development of the Scranton-Abingtons Planning Association Comprehensive Plan and any future comprehensive plan;
2. Maintain and keep records of its actions, which shall be in the possession of the Waverly Township Board of Supervisors;
3. Make recommendations to the Waverly Township Board of Supervisors concerning adoption or amendment of an official map;
4. Prepare and present to the Waverly Township Board of Supervisors a zoning ordinance and make recommendations to the Waverly Township Board of Supervisors on proposed amendments to it; and
5. Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Pennsylvania Municipalities Planning Code (MPC) or as prescribed in this Ordinance.

Section 11.6 – Amendments

- A. Publication, Advertisement, and Availability of Ordinances and Amendments.

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

B. Zoning Map Amendments (Rezoning).

1. Purpose of Rezoning.

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

2. Rezoning Applications.

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

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

3. Review of Rezoning Applications.

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

C. Zoning Ordinance Amendments.

The Waverly Township Board of Supervisors may, from time to time, amend, supplement, or repeal any of the regulations and provisions of this Ordinance. The enactment of a zoning amendment shall be in accordance with Section 609 of the Pennsylvania Municipalities Planning Code (MPC).

D. Curative Amendments.

1. Landowner Curative Amendments.

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

2. Municipal Curative Amendments.

If the Waverly Township Board of Supervisors determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take actions in accordance with Section 609.2 of the Pennsylvania Municipalities Planning Code (MPC).⁷⁵

**APPENDIX I
Historic District Ordinance**

An ordinance of the Township of Waverly creating a historic district, defining its limits, providing for the appointment of a historic architectural review board to give recommendations to the township supervisors the Township of Waverly regarding the issuance of certificates of appropriateness in connection with the granting or refusal of permits for the construction, alteration, restoration, reconstruction, repairs or demolition of any building within the district and for appeals from such refusals, and providing for the notification to the Pennsylvania historical and museum commission of the adoption of this ordinance and obtaining from the commission a certificate as to the historical significance of the district.

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ARTICLE I Legal Authorization and Purposes

Section 100 - Legal Authorization

Pursuant to authority contained in the Act of June 13, 1961, P. L. 282, No. 167 (53 P. S. 8001), as amended, there is hereby created a historic district within the Township of Waverly.

The Historic District shall be considered as an "overlay" to the zoning ordinance. All of the provisions and requirements of the underlying zoning districts shall remain in full force, except that these additional procedures and requirements of this Article shall also apply.

This Ordinance shall be known and may be cited as the "Township of Waverly Historic District Ordinance."

Section 101 - Purposes

This Historic District is created for the following purposes:

- A. To protect that portion of the Township of Waverly which reflects the cultural, economic, social, political and architectural history of the Township of Waverly, the State, and the Nation.

- B. To promote the use and reuse of the historic structures of the Township of Waverly for the culture, education, pleasure and the general welfare of the people of the Township of Waverly, the State, and the Nation.
- C. To strengthen the economy of the Township of Waverly by stabilizing and improving property values within the historic district.
- D. To encourage renovation or alteration of existing structures and new building and development within the historic district that will be harmonious with the existing historic and architecturally important structures.

ARTICLE II Definitions

Section 200 - Definitions:

For the purpose of this ordinance, all words used in the present tense include the future tense. All words used in the plural number include the singular number and all words used in the singular number include the plural number, unless the natural construction of the word clearly indicates otherwise. The word "shall" is mandatory. The word "used" includes "designated, intended, built, or arranged to be used."

- A. Alteration - Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, replacement, reconstruction, demolition or relocation of any structure or object, or any part of a structure which is visible from the streets or public roads within the Historic District, excluding changes of paint color.
- B. Building - A structure formed of any combination of materials that is erected on the ground and permanently affixed thereto, and designed, intended, or arranged for the housing, shelter, enclosure or structural support of person, animals, or property of any kind. Any structure such as but not limited to those having a roof supported by columns, piers, or walls, including tents, lunch wagons, mobile homes, trailers, dining cars, or other structures on wheels, or having other supports, and, any unroofed platform, terrace or porch having vertical face higher than three (3) feet *above* the level of the ground over or upon which said structure is located
- C. Building Permit - An approval statement signed by the Code Enforcement Officer authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any structure within the historic district.
- D. Building Permit Application - The request filed by any person with the Code Enforcement Officer that seeks authorization to construct, alter, reconstruct, repair, restore, demolish or raze all or a part of any structure within the historic district
- E. Code Enforcement Officer - The officer of the Township of Waverly designated by Township Supervisors as the individual who issues the permit for the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any building

- F. Certificate of Appropriateness - The approval statement signed by the Township Supervisors which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any structure within a historic district and authorizes the issuance of a building permit for said request.
- G. Completed Application -A complete permit or certificate of appropriateness application that conforms to the submittal criteria for specific historic preservation projects, as determined by the Historical Architectural Review Board.
- H. Construction -Any or all work necessary for the erection of any structure from a combination of materials that form safe and stable structures.
- I. Demolition - The dismantling or tearing down of all or part of any structure and all operations incidental thereto, including neglecting routine maintenance and repairs, which can lead to deterioration and decay.
- J. Demolition by Neglect - The absence of routine maintenance and repair which can lead to a structure's structural weakness, decay, and deterioration resulting in its demolition.
- K. Noncontributing building - Any building within the historic district that is identified in the National Register of Historic Places nomination documents as being non-contributing to the character of the district by virtue of its age or degree of alteration.
- L. Property - A parcel of land including improvements, lawns, pavement, sidewalks, parking areas, and curbing.
- M. Reconstruction - Any or all work needed to remake or rebuild all or a part of any structure to a sound condition, but not necessarily of original materials.
- N. Repairs - any or all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.
- O. Restoration - Any or all work connected with the returning to or restoring a structure or a part of any structure to its original condition through the use of original or nearly original materials.
- P. Sign - A lettered board, structure or other surface, or any other device used to visually announce, advertise or convey information to the public for any purpose. Included would be:
 - 1. Animated Sign - A sign with action or motion, flashing lights or color changes requiring electrical energy, electronic or manufactured sources of supply, but not including wind-actuated elements such as flags, banners or pennants.
 - 2. Business Sign - A sign that announces or directs attention to a business, product, service or activity sold or conducted on the premises where such sign is located.
 - 3. Illuminated Sign - A sign incorporating a source of light in order to make the message readable. Included are internally and externally lighted signs.

- Q. Structure -Any combination of materials forming a unit that requires location in or on the ground or which is attached to something having location on the ground. The term "structure" shall include buildings, signs, sidewalks, fences, walls (including but not limited to stone walls), towers, swimming pools (above or below ground), porches, carports, garages, stadia, sheds or similar structures.
- R. Township of Waverly Historic Architectural Review Board (HARB) - The agency that advises the Township Supervisors of the Township of Waverly on any requests for authorization to construct, alter, reconstruct, repair, restore or demolish all or a part of any structure within the historic district
- S. Township Planning Commission - The agency, which advises the Township Supervisors of the Township of Waverly on planning and planning-related matters.

ARTICLE III Delineation and Interpretation of Districts

Section 300 - Delineation of Historic Districts

The Township of Waverly Historic District shall be described in writing in this section and delineated on an official map of the Township, attached hereto as Exhibit "A."

The Official Historic District Map shall be signed by the Township Supervisors of the Township of Waverly and shall be located in the office of the Code Enforcement Officer.

The Township of Waverly Historic District is bounded as follows: The Waverly National Register of Historic Places historic district as delineated in the National Register of Historic Places Registration Form.

Section 301 - Interpretation of Boundaries

Where uncertainty and/or discrepancies exist as to the boundaries of the district as shown on the Official Township of Waverly Historic District Map and/or as described in the above, the following rules shall apply:

- A. Boundaries indicated, as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as parallel to or extensions of features indicated in the above, shall be so construed. Distances not specifically indicated on this Official Map shall be determined by the scale of the Map.
- D. Where physical or cultural features existing on the ground are at variance with those shown on the Official Map, or in other circumstances not covered by the above, the Township Supervisors shall interpret the boundaries of the District.

ARTICLE IV Historical Architectural Review Board: Creation, Membership and Duties

Section 400 - The Creation and Membership of the Historical Architectural Review Board

- A. An Historical Architectural Review Board, hereafter referred to as "the HARB," is hereby established to be composed of seven (7) members appointed by the Township Supervisors of the Township of Waverly. The membership of the HARB shall be as follows:

One (1) member shall be a registered architect;

One (1) shall be a licensed real estate broker;

One (1) shall be the Township's Building Code Official;

One (1) shall be a Planning Commission member; and

Three (3) shall be persons with demonstrated interest in the preservation of the Township of Waverly Historic District, who may also possess knowledge, ability, experience, or expertise in restoration, historic rehabilitation, or neighborhood conservation.

- B. The initial terms of the first members shall be so fixed that no more than two (2) members shall be replaced or reappointed during any one calendar year. Their successors shall serve for a term of *five* (5) years. The position of any member of the HARB appointed in his or her capacity such as a registered architect, a licensed real estate broker, zoning officer, planning commission member, etc., who ceases to be so engaged shall be automatically considered vacant. An appointment to fill a vacancy shall be only for the unexpired portion of the term.
- C. It shall be the duty of each HARB member to remain conscious of and sensitive to any possible conflict of interest (including, but not limited to financial considerations), which may arise by virtue of his or her membership on the Board. Any member, promptly upon determining that he or she has a conflict relative to any matter brought before the Board, shall disqualify himself or herself from participating, in any manner, publicly or privately, in the presentation, discussion, or deliberation of and the voting on any such matter, including temporarily absenting himself or herself from the room in which the discussion is being held.

Section 401 - Powers and Duties of the HARB

- A. **Advisory Role** - The HARB shall give advice to property owners and recommendations to the Township Supervisors of the Township of Waverly regarding the issuance of Certificates of Appropriateness required to be issued in accordance with the said Act of June 13, 1961, as amended and with this Ordinance.
- B. **Board Rule-Making Power** - The HARB may establish and amend rules and regulations for its own organization and procedure, provided that they are consistent with the laws of the Commonwealth and all provisions of this Ordinance.
- C. **Annual Reports** - The members of the HARB shall make an annual report to the Township Supervisors of the Township of Waverly that would include any recommendations for change in the Ordinance.

- D. Compensation - The members of the HARB shall serve without compensation, except as may be provided otherwise by Township Supervisors, such as reimbursement for HARB-related expenses. The HARB may, in accordance with appropriations by the Township Supervisors of the Township of Waverly, employ clerical assistants and incur other necessary expenses.
- E. Meetings - The HARB shall meet publicly at least once at regularly scheduled intervals or within fifteen days of the receipt of an application. Further, the HARB may hold any additional meetings it considers necessary to carry out its powers and duties indicated in this Ordinance. Such meetings shall be open to the public. A majority of the HARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the quorum (four [4] members) of the HARB.
- F. Training - HARB members and HARB support staff are encouraged to attend a minimum of eight (8) hours annually of seminars, conferences or workshops related to historic preservation and HARB administration, with the expenses associated with attendance at such seminars, conferences, or workshops to be reimbursed by the Township.

Section 402 - Additional Powers and Duties of the HARB

In addition to the above, the HARB shall have the following powers and duties:

- A. To conduct investigations of buildings and structures for the purpose of determining those of historic and/or architectural significance along with pertinent facts about them; to act in coordination with the Township Planning Commission and other appropriate groups; and to maintain and periodically revise the detailed listings of historic sites and buildings and data about them, appropriately classified with respect to national, state or local significance, to period or field of interest, or otherwise.
- B. To propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to the existing historic district.
- C. To formulate recommendations concerning the establishment of an appropriate system of markers for selected historic and/or architectural sites and buildings including proposals for the installation and care of such historic markers.
- D. To formulate recommendations concerning the preparation and publication of maps, brochures and descriptive material about the Township's historic and/or architectural sites and buildings.
- E. To cooperate with and advise the Township Supervisors of the Township of Waverly, the Township Planning Commission, and other Township agencies in matters involving historically and/or architecturally significant sites and buildings (including but not limited to appropriate land usage, parking facilities, and signs, as well as adherence to lot dimensional regulations and minimum structural standards).
- F. To cooperate with and enlist assistance from the Pennsylvania Historical and Museum Commission, the National Park Service, Preservation Pennsylvania, the National Trust for Historic Preservation, and other agencies, public and private, from time to time, concerned with historic sites and buildings.

- G. To advise owners of historic buildings and structures on issues related to preservation.
- H. To promote public interest in the purpose of this Ordinance by carrying on a public relations program.

ARTICLE V Design Guidelines

Section 500 - Design Guidelines

In determining the recommendations to be made to the Township Supervisors of the Township of Waverly concerning the issuance of a Certificate of Appropriateness, the HARB shall consider only those issues that are pertinent to the preservation of the historic and/or architectural aspect and nature of the building, structure, site, area or district, certified to have historical significance, including the following:

- A. The effect of the proposed change upon the general historic and architectural nature of the District.
- B. The appropriateness of the exterior architectural features which can be seen from the streets or public roads within the Historic District; features not visible from the streets or public roads within the Historic District are not regulated by this Ordinance.
- C. The general design, arrangement, texture, and material of the building or structure and the relation of such factors to similar features of buildings or structures in the District.
- D. The conformity of the proposed project to the following guidelines, which are adapted from "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," as developed by the National Park Service of the U. S. Department of the Interior:
 - 1. The historic character of a Property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a -Property will be avoided.
 - 2. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
 - 3. Changes to a Property that have acquired historic significance in their own right will be retained and preserved.
 - 4. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the structures on a Property will be preserved.
 - 5. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

6. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
 7. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the Property and its environment.
 8. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic Property and its environment would be unimpaired.
- E. The height of any new building or structure shall not exceed the height of the tallest adjacent building or structure by more than fifty (50) percent. This requirement shall also apply to any proposed modifications to existing buildings or structures.
- F. In cases where applications for proposed demolition or razing occur, the HARB shall, where deemed necessary, recommend to the Township Supervisors of the Township of Waverly that the proposed demolition or razing be postponed to allow for the investigation of alternatives to demolition. However, in the event demolition cannot be avoided, then the moving of a building shall be encouraged as an alternative to demolition if there is no other way to preserve the building on its original site. If moving a building or structure slated to be demolished is economically infeasible, efforts should be made to salvage architectural features of said building or structure for use within the Township.
- G. In addition to the above, all other Township laws and ordinances not inconsistent with this ordinance shall be complied with, including the zoning and subdivision ordinances.

Section 501 - Signs in Commercial Zone

- A. No sign or permanent external advertising display of any kind shall be erected, altered or used in a commercial zone within the historic district except for advertising informing the public of the service, business, occupation or professional carried on, in or about the property on which such sign or permanent external advertising display appears. In conjunction with this, no such sign or advertising display of any kind or for any purpose shall be erected or altered until an application for permit to make such erection or alteration has been reviewed by the HARB for its conformity in exterior material composition, exterior structural design, external appearance and size with similar advertising or information media used in the architectural period of the District and a permit granted thereon.
- B. In addition to the above, and those matters considered in Section 500, the following shall be adhered to:
1. No animated, revolving or moving signs shall be permitted.
 2. Illumination of any sign shall be indirect, shielded or otherwise arranged to prevent direct glare; internally illuminated signs, whether a large sign or individual letters, shall not be used.

3. Projecting signs extending more than two (2) feet over any public walk or right-of-way shall be at least ten (10) feet above the walk grade and at least fourteen (14) feet above any vehicular right-of-way.
 4. No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location, where by reason of its position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
 5. The use of neon may be permitted by the HARB, depending upon its location and scale with respect to a building, its storefront, or other architectural components.
 6. No sign shall be located so as to prevent or hinder free ingress to or egress from any door, window or fire escape. No sign shall be attached to a standpipe or fire escape.
 7. The use of awnings is encouraged; graphics may be applied to the front and sides of the awning. Such awnings shall be of a traditional design; awnings with a curved profile or which are internally illuminated shall not be used.
 8. No sign shall be attached to or placed on any public utility pole or tree located within any public right-of-way.
- C. Temporary signs advertising community events may be erected from time to time, but they should not be electrified; such signs shall not be erected more than seven (7) days before the event and must be removed within twenty-four (24) hours of the end of the event.
- D. All other requirements of any Township Ordinances must be complied with. Historical markers may be authorized by the HARB subject to the provisions stipulated and such markers shall not be considered as signs but are to be erected in accordance with the requirements established for historical markers by the HARB.

Section 502 - Demolition

- A. The intent of this section is to ensure that valuable historic structures are not permanently destroyed unless no reasonable alternatives are available.
- B. This section shall apply to any existing structure or portion of such structure within the historic district.
- C. No structure defined by Subsection "B", above, shall be demolished or razed unless one of the following is satisfied, in the determination of Township Supervisors, based upon the recommendations of the HARB:
 1. That the structure is non-contributing to the overall character of the historic district, based upon the advice of the HARB;
 2. That the applicant proves that no reasonable beneficial use of the structure is possible, and that such situation is not the result of intentional neglect by the current owner; or
 3. That the applicant proves that the denial of the demolition or razing request would greatly result in unreasonable economic hardship to the owner.

4. That demolition or razing would remove a public hazard and protect the health and safety of the public.

ARTICLE VI Administration: Application Review Procedures

Section 600 - Application Review Procedure

- A. Upon receipt of an application for a Certificate of Appropriateness for work to be done in the district, the Township's Building Code Official shall act in accordance with the procedures then being followed in that office, except those procedures that are necessarily modified by the following requirements:
 1. He shall forward copies of the application for a Certificate of Appropriateness together with copies of any plot plan and building plans and specifications filed by the applicant to each member of the HARB.
 2. He shall not issue a permit for any construction, alteration, reconstruction, repair, restoration or demolition of all or a part of any structure in the District until the Township Supervisors of the Township of Waverly has issued a Certificate of Appropriateness.
 3. He shall require applicants to submit a sufficient number of additional copies of material required to be attached to an application for a building permit so that the information needed to make the determination set forth in Section 600(G) 1-8 will be available.
 4. He shall maintain in his office a record of all such applications and final disposition of the same.
- B. HARB Review of Applications - Upon the receipt of any Certificate of Appropriateness application under the jurisdiction of this Ordinance, the HARB shall consider such at its next regularly scheduled meeting or at a special meeting.
- C. Notification of Applicant of HARB Meeting - The person(s) applying for the Certificate of Appropriateness shall be advised of the time and place of said meeting and be invited to appear to explain a proposed project at least ten (10) days in advance of the meeting. The HARB may invite such other persons as it desires to attend its meeting.
- D. Design Guidelines - In determining the recommendations to be presented to the Township Supervisors of the Township of Waverly, concerning the issuing of a Certificate of Appropriateness authorizing a permit for the construction, alteration, reconstruction, repair, restoration or demolition of all or a part of any building or structure within the Historic District, the HARB shall consider the Design Guidelines set forth in
- E. Time Frame for HARB Decision - In most cases, the HARB shall render a decision and recommendation on any application for a Certificate of Appropriateness under its review no later than fifteen (15) days after the hearing/meeting provided for in Section 401 of this Ordinance and shall submit, in writing to the Township Supervisors of the Township of Waverly recommendations concerning the issuance of a Certificate of Appropriateness. In the case of large projects, the HARB may postpone its decision for a reasonable time

not to exceed forty five (45) days in order to investigate a project more fully than would be possible within fifteen days.

- F. Application Disapproval by the HARB - If the HARB decides to advise against the granting of a Certificate of Appropriateness, it shall prepare a written decision and forward such decision to the applicant for a building permit. The disapproval shall indicate to the applicant the changes in plans and specifications, if any, which would protect the distinctive historical character of the historic district. The HARB shall withhold its report for a period of five (5) days to allow the applicant to decide whether or not to make the suggested changes in his plans and specifications. If the applicant determines that he will make the necessary changes, the applicant shall so advise the HARB, which shall in turn advise the Township Supervisors accordingly.
- G. Contents of Written Report - The written report to Township Supervisors concerning the HARB's recommendations on the issuance of a Certificate of Appropriateness shall set out the following issues:
1. The exact location of the area in which the work is to be done.
 2. The exterior changes to be made or the exterior character of the structure to be erected.
 3. A list of the surrounding structures with their general exterior characteristics.
 4. The effect of the proposed change upon the general historic and architectural nature of the district.
 5. The appropriateness of exterior architectural features of the structure, which can be seen from a street or public road within the historic district.
 6. The general design, arrangement, texture, and material of the structure and the relation of such factors to similar features of structures in the historic district.
 7. The opinion of the HARB (including any dissent) as to the appropriateness of the work proposed as it will preserve or destroy the historic aspect and nature of the historic district.
 8. The specific recommendations of the HARB as to the issuance by the Township Supervisors of the Township of Waverly or its refusal to issue a Certificate of Appropriateness.
- H. Notification of Applicant by the Township Supervisors of its Consideration - Upon receipt of the written report from the HARB as provided in Subsection G of this section, the Township Supervisors shall consider at the next regularly scheduled or special meeting, the question of issuing to the Code Enforcement Officer a Certificate of Appropriateness authorizing a permit for work covered by the application. The applicant shall be advised, in writing, by the Township Secretary of the time and place of the meeting at which his application shall be considered. The applicant shall have the right to attend this meeting and be heard as to the reasons for filing the said application and/or to appeal the negative recommendation from the HARB.

- I. Design Guidelines - In determining whether or not to certify to the appropriateness of the proposed construction, alteration, reconstruction, repair, restoration or demolition, of all or a part of any structure within the historic district, the Township Supervisors shall consider the same factors as the HARB set forth in Sections 500 and 501 of this Ordinance and the report of the HARB.
- J. Approval by the Township Supervisors - If the Township Supervisors approve the application, the Supervisors shall issue a Certificate of Appropriateness authorizing the Code Enforcement Officer to issue a permit for the work covered.
- K. Disapproval by the Township Supervisors - If the Township Supervisors disapprove, the Supervisors shall do so in writing, and copies shall be given to the Code Enforcement Officer, the applicant, and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the district.
- L. Upon receipt of a written disapproval of the Township Supervisors, the Code Enforcement Officer shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal from the disapproval as provided by law.
- M. Final Notification by Township Supervisors - In either case, the Township Supervisors shall notify the applicant within five (5) business days of its meeting at which the application was considered.
- N. Any new construction within the historic district remains subject to the review and approval processes of the Waverly Township Subdivision and Land Development Ordinance.

ARTICLE VII Unreasonable Economic Hardship

Section 700 - Unreasonable Economic Hardship

When a claim of unreasonable economic hardship is made due to the effect of this Ordinance, the owner of record must present evidence sufficient to prove that as a result of the HARB's action, he is unable to obtain a reasonable return or a reasonable beneficial use from the building. The owner of record shall submit by affidavit to the HARB information that shall include but not be limited to the following:

- A. Date the property was acquired by its current owner.
- B. Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property.
- C. Mortgage history of the property, including current mortgage.
- D. Current market value of the property.
- E. Equity in the property.
- F. Past and current income and expense statements for a two-year period.

- G. Past capital expenditures during ownership of current owner.
- H. Appraisals of the property obtained within the previous two years.
- I. Income and property tax factors affecting the property.

The HARB may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.

The HARB may receive and consider studies and economic analyses from other Township agencies and from private organizations relating to the property in question.

Should the HARB determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes. The HARB may choose to recommend to the Township Supervisors that special economic incentives be developed to assist the owner of the property in maintaining it and obtaining a suitable economic return or achieving a reasonable beneficial use.

The HARB may seek the assistance of appropriate local, statewide, or national preservation organizations in developing solutions that would relieve the owner's economic hardship. If the HARB chooses to explore such options, it may delay issuing a Certificate of Appropriateness for demolition on the basis of economic hardship for a period of ninety (90) days in addition to time periods otherwise applicable.

Should the applicant satisfy the HARB that he will suffer an unreasonable economic hardship if a Certificate of Appropriateness is not approved, and should the HARB be unable to develop with the Township or appropriate local, statewide and/or national preservation organizations a solution which can relieve the owner's economic hardship, the HARB shall recommend that a Certificate of Appropriateness be issued for the proposed undertaking.

ARTICLE VIII Reserved

Section 800 - Emergencies

- A. In the event of any damage to any structure located within the historic district which requires prompt repair or stabilization for the protection of the structure or items contained therein or to permit the structure to continue to be utilized, the owner of the structure may make temporary repairs to accomplish such stabilization as is necessary to protect the structure or the items contained therein or to permit the continued use of the structure without complying with the provisions of this Article.
- B. Such owner shall report the need for such repairs to the Code Enforcement Officer and obtain a permit promptly after discovery of such need in order to secure the benefits of this section. Such owner shall do no more work than is reasonable to obtain the said protection without complying with the provisions of this article.

Section 801 - Demolition by Neglect

- A. All structures within the Township of Waverly Historic District shall be maintained in good repair, structurally sound, and reasonably protected against decay and deterioration. Examples of such deterioration include, but are not limited to:
1. Deterioration of exterior walls or other vertical supports
 2. Deterioration of roofs or other horizontal members.
 3. Deterioration or crumbling of exterior chimneys.
 4. Deterioration or crumbling of exterior stucco or mortar
 5. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
 6. Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that a demolition is necessary for the public safety.
- B. In the event HARB determines after inspection and review that a Contributing Structure within the Historic District is deteriorating to the extent that further decay and deterioration will result in Demolition by Neglect of such Structure, HARB shall so inform the Supervisors of its determination and its recommendation as to the repair and maintenance required to prevent such Demolition by Neglect; and
- C. The Supervisors shall notify the record owner of any such neglected Structure, by Certified Mail, Return Receipt Requested and by Posting the Structure, that HARB has made findings and recommendations with regard to the Structure, and demand that the repairs and maintenance specified in the HARB recommendation be completed within sixty (60) days of the Notice; and
- D. The owner of the Property that is the subject of the findings and recommendations of HARB shall have the right to appeal the Supervisors' order that the repairs and maintenance specified in the order be performed by submitting a written Appeal to the Township Manager within thirty (30) days of service of the Notice specified in Section 801 B(ii), above. The Township Manager shall then schedule a Hearing before HARB within thirty (30) days of such Appeal, at which time the owner/appellant shall have the opportunity to present evidence that the repairs and maintenance required by the findings and recommendations are not reasonable or necessary. The decision of HARB on the Appeal shall be made within thirty (30) days of the conclusion of the Hearing. If HARB does not sustain the Appeal, the order to complete the repairs and maintenance shall be in full force and effect and the sixty (60) day period for completion of the repairs and maintenance shall begin to run from the date of HARB's action on the Appeal.
- E. In the event the repairs and maintenance specified in the HARB recommendation are not completed within the sixty (60) day periods set forth in Subsection (ii) or (iii), above:
1. The Supervisors may, but need not, cause such repairs and maintenance to be completed so as to stabilize and protect such Structure and file a Municipal Lien against the Property that includes the Structure for the cost thereof; or

2. The Supervisors may seek appropriate Judicial Relief to compel completion of the work.

ARTICLE IX Administration: Enforcement, Violations, Amendments, Severability, etc.

Section 900 - Enforcement

The Township's Building Code Official shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Ordinance in the same manner as in his enforcement of the Township Building Permit Ordinance as enacted and as may be amended from time to time.

Section 901 - Penalty

Any person, property owners, occupant, firm or contractor failing to obtain a building permit or Certificate of Appropriateness pursuant to this Ordinance shall be fined the sum of \$100.00 for each day the violation is unabated.

Section 902 - Repealer

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 903 - Severability Clause

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not *affect* the validity of this Ordinance as a whole, or any part thereof. To the extent that any other ordinance or regulation of the Township conflicts with a provision of this Ordinance, this Ordinance shall supersede such other inconsistent or conflicting Township ordinance or regulation provision.

Section 904 - Amendments

The provisions of the Ordinance may be amended in the future by the Township Supervisors after notice and hearing as provided by law.

Section 905 - Effective Date/Certification by Pennsylvania Historical and Museum Commission

Immediately upon the adoption of this Ordinance, the Township Secretary shall forward a copy thereof to the Pennsylvania Historical and Museum Commission. This Ordinance shall not take effect until: (1) the said Commission has certified, by resolution, to the historical significance of the Township of Waverly Historic District and, (2) it has been duly advertised once in one newspaper of general circulation in the Township as required by law.

CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 115 – 2004 WHICH WAS DULY ENACTED AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF WAVERLY DULY HELD THE 29th DAY OF MARCH, 2004.



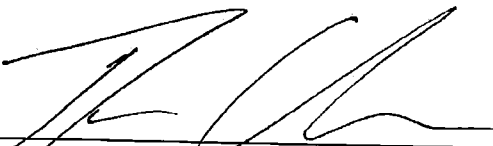
Township Secretary

THIS ORDINANCE DULY ORDAINED AND ENACTED by the Township of Waverly
this 14 day of June, 2021

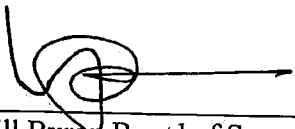
In accordance with the 2021 Scranton-Abingtons Planning Association (SAPA)
agreement, the effective implementation date of this Ordinance shall be upon the latest date of
Zoning Ordinance adoption as conducted by all nine participating SAPA municipalities.

ATTEST:

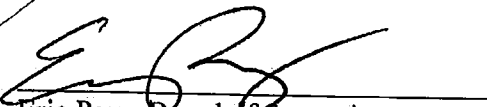
TOWNSHIP OF WAVERLY



Drew Christian Board of Supervisors

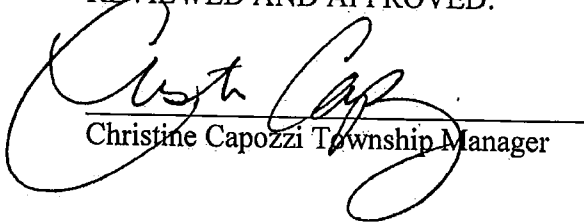


Bill Byron Board of Supervisors



Eric Parry Board of Supervisors

REVIEWED AND APPROVED:



Christine Capozzi Township Manager

WAVERLY TOWNSHIP
Lackawanna County, Pennsylvania

ORDINANCE NO. 158

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF WAVERLY TOWNSHIP, LACKAWANNA COUNTY, PENNSYLVANIA, ENACTED JUNE 14, 2021, AND EFFECTIVE DECEMBER 20, 2023, IN ACCORDANCE WITH THE SCRANTON-ABINGTONS (SAPA) COOPERATIVE ZONING INTER-GOVERNMENTAL AGREEMENT ADOPTED JUNE 14, 2021, TO REVISE DISTRICT QUICK VIEWS AND ACCESSORY STRUCTURE REGULATIONS

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Waverly Township, Lackawanna County, Pennsylvania, by authority of and pursuant to the Pennsylvania Municipalities Planning Code (Act of 1968, PL 805, No. 247) as amended:

Revise Article 3, §3.4 – District Quick Views, to read as follows:

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

- A. Table of Principal Use Regulations (organized by land use group);
- B. Table of Accessory Use Regulations; **(See Section 5.13 for accessory structure supplemental regulations)**
- C. Dimensional Regulations for Lots and Buildings **(See Section 5.13 for accessory structure supplemental regulations)**
- D. Preferred Lot Configurations; and
- E. Other Requirements.

Revise Article 5, §5.13 – Accessory Structures, to read as follows:

~~A. Accessory uses, buildings, and structures are permitted only in conjunction with an established principal use and must be located on the same lot as said principal use.~~

~~B. No structure accessory to a nonresidential use, other than signs and lighting fixtures, shall be located in the front yard setback.~~

~~C. Setbacks for accessory structures shall comply with the requirements specified in each zoning district, unless otherwise regulated in this Ordinance.~~

~~D. No object exceeding a height of three (3) feet, unless otherwise permitted by this Ordinance, shall be temporarily or permanently placed, erected, installed, or parked within the clear sight triangle required at the intersection of streets or the intersection of a driveway or private lane with a public street.~~

A. Accessory Structures and Uses

1. Attached Accessory Structures and Uses.

Accessory structures attached to a principal building shall be considered a part of the principal building and shall conform to the building height limitations and minimum required setbacks for principal structures.

2. Unattached Residential Accessory Structures and Uses.

Unattached residential accessory structures may not be erected in any required front yard, but shall be allowed in side and rear yards, provided that the specific accessory-use regulations set forth in this Ordinance are met.

On corner lots, unattached residential accessory structures shall not be located in any yard abutting a street right-of-way.

No unattached residential accessory structure shall be located closer than ten feet (10') from a principal structure or exceed a wall height of fifteen feet (15'), except as provided by specific accessory-use regulations in this Ordinance.

Unless otherwise specifically set forth in this Ordinance, all unattached residential accessory structures shall be setback a minimum of ten feet (10') from all property lines.

3. Unattached Non-Residential Accessory Structures and Uses.

Unattached non-residential accessory structures may not be erected in any required front or side yard, but shall be allowed in rear yards, provided that the specific accessory-use regulations set forth in this Ordinance are met.

No unattached non-residential accessory structure shall be located closer than ten feet (10') from a principal structure or exceed a wall height of fifteen feet (15'), except as provided by specific accessory-use regulations in this Ordinance.

Unless otherwise specifically set forth in this Ordinance, all unattached non-residential accessory structures shall be setback a minimum of ten feet (10') from all property lines.

4. Accessory Structures and Uses within the Historic District Overlay Zone.

All accessory structures and uses, established, erected, constructed, altered, repaired, restored, or demolished within the Waverly National Register Historic District shall require the issuance of a Certificate of Appropriateness by the Board of Supervisors after review and recommendation by the Historic Architectural Review Board (HARB).

B. E- Specific types of accessory structures named in this Ordinance shall be regulated by applicable sections in this Ordinance governing such accessory structures. It is the responsibility of the landowner to abide by any provisions for such structures as may be found in this Ordinance or any other ordinances of the Township.

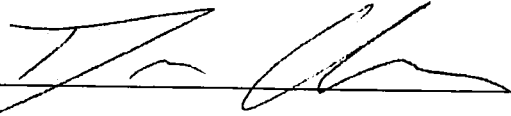
1. Garages and Carports, private


- (a) Private garages and carports as defined by this Ordinance shall comply with the applicable requirements of §5.13.
- (b) The exterior architectural appearance of private garages and carports shall be compatible ~~to~~ **with** that of the principal residential structure.
- (c) A maximum of four (4) bays shall be allowed for detached private garages or carports or any combination thereof. On lots greater the one (1) acre, newly proposed detached private garages or carports or any combination thereof may contain more than four (4) bays; however, any new private garage or carport or combination thereof proposing more than four (4) bays shall be considered a special exception use and require approval by the Zoning Hearing Board prior to construction.
- (d) Private garages or carports attached, **or** proposed to be attached, to a principal dwelling shall be considered a part of the principal dwelling and shall not be subject to any bay limitations as set forth in § 5.13.


The public hearing for this Ordinance was held on February 12, 2024

This Ordinance, amending the Waverly Township Zoning Ordinance enacted June 14, 2021, and effective December 20, 2023, in accordance with the Scranton-Abingtons (SAPA) Cooperative Zoning Intergovernmental Agreement adopted June 14, 2021, is hereby ORDAINED and ENACTED by vote of the Board of Supervisors of Waverly Township, Lackawanna County, Pennsylvania, at a duly convened meeting of the Board of Supervisors held this 12 day of February, 2024.


WAVERLY TOWNSHIP BOARD OF SUPERVISORS


Chairman


Supervisor


Supervisor

ATTEST:


Township Secretary (SEAL)

